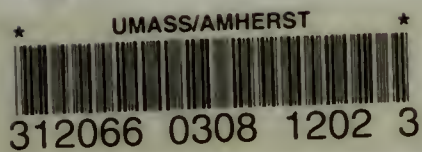


MASS. EX 2.3: Jul-Dec 2003



## **EXECUTIVE DEPARTMENT LEGAL COUNSEL:**

**Building a Foundation of Excellence  
in  
Government Legal Service**

**(July 1 - December 31, 2003)**



# EXECUTIVE DEPARTMENT LEGAL COUNSEL

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THE COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE DEPARTMENT

STATE HOUSE • ROOM 271

BOSTON, MASSACHUSETTS 02133

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\*Admitted in California,  
Massachusetts bar application  
pending.

March 1, 2004

Eric Kriss, Secretary  
Executive Office of Administration & Finance  
State House, Room 373  
Boston, Massachusetts 02133

Re: Executive Department Legal Counsel Report

Dear Mr. Secretary:

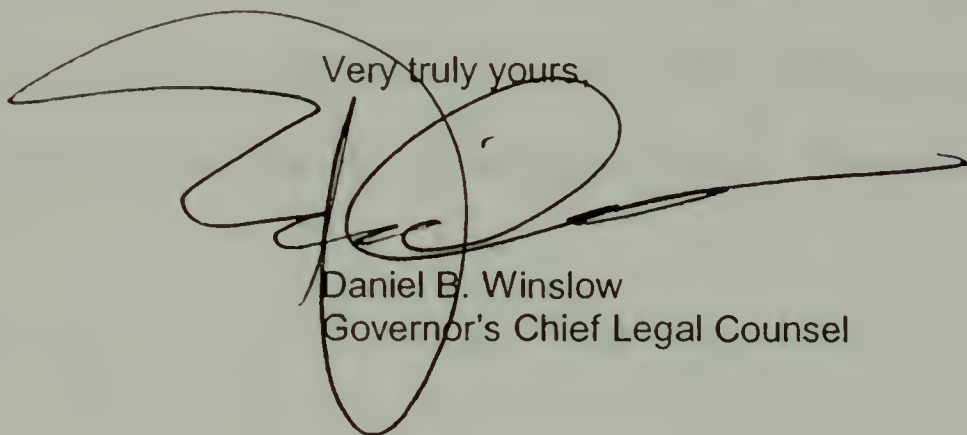
In accordance with G. L. c. 30, § 65, I am pleased to enclose the first semi-annual report to the Legislature on the operations of the Executive Department Legal Counsel for you to forward to the General Court. The budget aspects of this report were prepared with the assistance of the Fiscal Affairs Division as well as the Office of the Comptroller for which we are most grateful.

The Executive agencies decreased the costs of outside counsel by 20% in the first half of fiscal year 2004 compared to the same time last year. Equally important, the new statute has encouraged improved communication and coordination with in-house counsel to begin building the foundation to continue reducing the use of outside counsel, improve competition between outside counsel to provide legal services where needed, and implement basic management tools to control legal costs.



All of the progress described in this Report reflects the hard work, dedication and professionalism of the secretariat and agency General Counsels and Staff Counsels who comprise the Executive Department Legal Counsel organization. These lawyers truly are an asset of the Commonwealth. It is my great privilege to work with them every day.

Very truly yours,

A handwritten signature in dark ink, consisting of a large, stylized 'D' followed by a series of loops and a long horizontal stroke extending to the right.

Daniel B. Winslow  
Governor's Chief Legal Counsel







**EXECUTIVE DEPARTMENT LEGAL COUNSEL**  
Statutory Authority

On July 1, 2003, the House of Representatives and Senate enacted a new statute proposed by the Senate President, G. L. c. 30, § 65, to break down barriers that existed between lawyers assigned to different agencies and to decrease the costs of outside counsel. Lawyers, unique among employees in the Executive branch, now can assist the legal needs of secretariats and agencies across agency lines. The statute provides as follows:

Section 65.

- (a) A lawyer who is not a regular state employee or person who is compensated through the automated payroll system of the commonwealth shall not provide legal services for the commonwealth, or for any department, agency, board or commission thereof, unless and until:- (1) the governor's chief legal counsel certifies in writing that no state employee can provide the legal services that the lawyer is to provide; (2) a written request for the legal services that the lawyer is to provide is made publicly available for competitive bidding, in a manner provided by regulations of the state purchasing agent, and approved by the comptroller; provided, however, that this clause shall not apply if a department, agency, board or commission of the commonwealth is in a situation or condition that requires the immediate provision of legal



**EXECUTIVE DEPARTMENT LEGAL COUNSEL**

Statutory Authority (continued)

services, and such a situation or condition is described and certified in writing by the governor's chief legal counsel in advance of the purchase of legal services by said department, agency, board or commission; and (3) the office of the attorney general has been consulted during the procurement process, in a manner provided by said regulations of the state purchasing agent, and has determined, following a review of the legal services contract, that any attorney hired by a department, agency, board or commission of the commonwealth is a member in good standing of the Massachusetts Bar or an out of state bar and has no apparent conflict of interests. If said attorney will be providing litigation services, the attorney general will ensure that said attorney will appear in court on behalf of the commonwealth only after his appointment as a special assistant attorney general.



## **EXECUTIVE DEPARTMENT LEGAL COUNSEL**

### Statutory Authority (continued)

(b) The secretary of administration and finance, with the comptroller's assistance, shall make a written semiannual report of expenditures for legal services for the commonwealth, or for any department, agency, board or commission thereof, provided other than by regular state employees. The report shall show the name of each lawyer, law firm if any, amount expended, the billing rate or fee arrangement and a brief statement of the legal services provided. The report shall be made to the house and senate committees on ways and means and the joint committee on state administration, not later than September 1 each year for the period from January 1 to June 30 of that year, and not later than March 1 each year for the period from July 1 to December 31 of the preceding year.

(b) Instead of making the certificate under clause (1) of subsection (a), the governor's chief legal counsel may, upon written request by the head of any department, agency, board or commission, assign a lawyer who is a state employee in another department, agency, board or commission, with the written approval of the head thereof, to provide





## EXECUTIVE DEPARTMENT LEGAL COUNSEL

### Statutory Authority (continued)

specific legal services for the requesting department, agency, board or commission, for a period not exceeding 3 months but subject to renewal. Such an assignment shall be subject to any applicable collective bargaining agreement. The certification required of the comptroller by the fourth paragraph of section 31 of chapter 29 shall not be required in instances of such an assignment by the governor's chief legal counsel.

(d) This section shall apply only to legal services provided under contract with the governor or with an officer, department, agency, board or commission serving under the governor or within one of the executive offices headed by a secretary appointed by the governor.

Many secretariats and executive agencies had engaged the services of outside counsel before enactment of the statute with legal services contracts already in effect for 2003 and 2004. In the circumstances and to assist the transition for outside counsel under the new statutory requirements, the Chief Legal Counsel certified to the





EXECUTIVE DEPARTMENT LEGAL COUNSEL

Statutory Authority (continued)

Secretariat General Counsels pursuant to (a)(2) of the statute that such preexisting contracts could continue until the new regulations and internal procedures were in place to invite replacement of outside counsel by inside counsel or to promote competition of existing outside counsel with new outside counsel.



## EXECUTIVE DEPARTMENT LEGAL COUNSEL

### Overview of Organization

In order to maximize the benefits of G. L. c. 30, § 65, the Governor organized the Executive lawyers into the Executive Department Legal Counsel with an unprecedented level of vertical and horizontal coordination between lawyers in the Executive branch. The Executive Department Legal Counsel functions as a team headed by the Governor's Chief Legal Counsel, Daniel B. Winslow, who provides leadership and coordination for all lawyers employed by Executive Department agencies. The Office of the Governor's Legal Counsel considers each of the Governor's legislative initiatives, as well as provides advice to the Governor concerning enacted legislation. The Office of the Governor's Legal Counsel also closely tracks ongoing litigation and coordinates initiatives with the fiscal and legislative offices.

The Executive Branch in Massachusetts is divided into administrative units called secretariats. Each secretariat has its own General Counsel who advises the Secretariat on legal matters and provides coordination and leadership to agency counsel, and interfaces with the Office of the Governor's Legal Counsel. The Secretariat General Counsel's office, which reports to the Secretary, may include more than one attorney. Almost all Massachusetts agencies have a General Counsel, and many have line attorney staff as well. Agency general counsels report to their agency heads, and agency line attorney staff report to their respective agency general counsel.



## EXECUTIVE DEPARTMENT LEGAL COUNSEL

### Overview of Organization (continued)

#### **Executive Department Legal Counsel**

In the aggregate, the lawyers assigned to the Executive Department agencies comprise the largest legal enterprise in the New England states, including more than 700 in-house and outside counsel, as well as Executive Department lawyers who represent the Governor and are assigned to provide legal services to each of the Executive branch agencies and commissions in Massachusetts. The legal work performed by them is as sophisticated and professionally challenging as that performed by our counterparts in the private sector. What distinguishes Executive Department lawyers most from the in-house counsel of any Fortune 500 Company and attorneys employed by any private law firm is their mission to provide superior legal representation in the context of public service.

#### **Work**

The work is diverse and demanding, requiring Executive Department attorneys to use the full range of their legal skills to represent the Commonwealth. The attorneys are assigned to and employed by different Executive Department agencies throughout the Commonwealth. Executive Department attorneys appear in every state and federal court and administrative forum in the Commonwealth and provide counsel on legal issues that





## EXECUTIVE DEPARTMENT LEGAL COUNSEL

### Overview of Organization (continued)

touch upon the business of the agencies they serve. Whether they are

- Advocating the Commonwealth's position in court as Special Assistant Attorneys General;
- Drafting or reviewing legislation or regulations;
- Reviewing or preparing one of the tens of thousands of contracts that the Commonwealth executes annually;
- Safeguarding children from dangerous and neglectful situations and ensuring that parents meet their child support obligations;
- Assisting state regulators to protect the environment, promote housing, improve transportation and other priorities of state government;
- Or negotiating a sophisticated investment vehicle

Executive Department lawyers' practices are geared to the particular missions of their respective state agencies, in accordance with the policy directives of the Governor and Cabinet.



## EXECUTIVE DEPARTMENT LEGAL COUNSEL

### Overview of Organization (continued)

#### **Who Executive Department Lawyers Work With**

The representation that Executive Department lawyers provide is unlike any found in the private sector. They work with:

- Governor Mitt Romney
- Lieutenant Governor Kerry Healey
- Members of the Cabinet
- The Executive Department and Agencies that manage the business of the Commonwealth under the auspices of the Governor as the "supreme executive magistrate" of the Commonwealth under the Massachusetts Constitution.

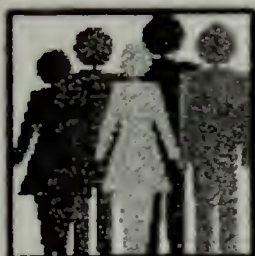
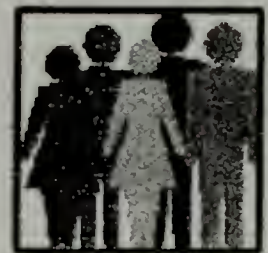
In coordination with the Office of the Attorney General, Executive Department attorneys have represented the Commonwealth in state and federal courts in cases as diverse as civil rights, constitutional law, revenue maximization, and child welfare.

#### **Who the Executive Department Legal Counsel Employs**

The Executive Department employs attorneys with a variety of educational backgrounds, legal disciplines, and expertise. Many attorneys began their careers as agency counsel and, over the years, have developed experience and expertise in representing the Governor and executive agencies. Many other attorneys are former private-sector practitioners, desiring to share and expand their knowledge and experience in the public sector. They truly are public servants.



**EXECUTIVE SECRETARIAT AND AGENCY LEGAL COUNSEL**  
**ORGANIZATION: Before G. L. c. 30, § 65**







# EXECUTIVE DEPARTMENT LEGAL COUNSEL

## Organization Chart

**EXECUTIVE DEPARTMENT LEGAL COUNSEL  
ORGANIZATION: After G.L. c. 30, § 65**

**Governor's Chief Legal Counsel**

**Office of Governor's Legal Counsel**

**Secretariat General Counsels**

**Agency General Counsels**

**Agency Staff Counsels**





## UTILIZATION OF INHOUSE COUNSEL

### Virtual Law Office

G. L. c. 30, § 65 highlighted the need to fully utilize the skills of in-house lawyers based on their professional expertise rather than merely their host agency assignment. In order to create the capacity for in-house lawyers to coordinate vertically with agencies in their secretariats and horizontally with agencies across secretariat lines, the Administration launched an effort to create the first-ever web based "Virtual Law Office" or "VLO" for the Executive Department Legal Counsel. Phase 1 of the VLO is scheduled for completion in June 2004.

Many large private, in-house and public sector law groups use "virtual law offices", combinations of outward facing websites and secure websites offering sophisticated content management, case management, and management reporting software. Such systems increase efficiency, improve legal resource management, and enhance lawyers' professional lives. To date, although a handful of Executive Department agencies use software providing case content management, case management, and reporting, no integrated, sophisticated, state of the art virtual law office is available to Executive Department lawyers across the enterprise.

In late 2003, the Office of the Governor's Legal Counsel received proposals to develop the VLO in several phases. ITD is providing technical support for the project,



## UTILIZATION OF INHOUSE COUNSEL

### Virtual Law Office (continued)

and the Office of the Governor's Legal Counsel has formed a steering committee of attorneys to guide the implementation of the project from the users viewpoint. Phase 1 of the VLO includes the creation of a the following, using open standards and open source tools: (1) a multilevel security system securing access to the secure portions of an inward facing website available only to Commonwealth lawyers; (2) a contact database of Commonwealth Executive Department agency lawyers names and their practice group affiliations; (3) an online forum (bulletin board or threaded discussion) through which lawyers in the Commonwealth's various subcommunities (called "practice groups") can meet and exchange information; (3) a document library of various legal forms; (4) sub-portals for each of the practice groups; (5) sub-portal for continuing legal education (CLE) page containing contact information, a self registration form for online registration for CLE courses, a store of materials from prior CLE courses, and a calendar for upcoming courses; (6) a page containing electronic legal research tools; (7) an extranet for legal audit firms, where agency counsel can have outside counsel bills audited; (8) an outside counsel site providing tools through which Governor's Legal can receive requests for outside counsel online from agencies and survey in-house counsel to see if needs can be met in-house and communicate the results of those surveys (including certification of the absence of qualified counsel permitting agencies to obtain outside counsel) and (9) a link to an electronic billing.



## UTILIZATION OF INHOUSE COUNSEL

### Virtual Law Office (continued)

utility through which agencies will be able to accept bills online from outside counsel

Phase 1 of the VLO is scheduled for completion in June 2004 and the Office of the Governor's Legal Counsel will seek funding for the final phases in 2004. If sufficient funds exist to complete the project, the Executive Department Legal Counsel will enjoy the fully developed VLO by the end of 2005. Phase 1 and subsequent phases of the VLO will create a nearly seamless ability to fully enjoy the benefits of G. L. c. 30, § 65.







## EXECUTIVE DEPARTMENT LEGAL COUNSEL

### Professional Practice Groups

G. L. c. 30, § 65 created the need to identify in-house lawyers by their professional skills rather than merely their host agency. For example, there are more human resource lawyers working in the various Executive agencies than in the Human Resource Department. A lawyer in the Department of Environmental Management has an LLM in State Banking law. Several lawyers have experience in Information Technology law, yet only one lawyer currently is assigned to the Information Technology Department. In conjunction with the VLO, we are developing an inventory of professional skills to enable Secretariat General Counsels and Agency General Counsels to reach out to in-house lawyers with appropriate expertise instead of retaining outside counsel.

The Governor's Chief Legal Counsel worked with Executive Department lawyers in 2003 to develop Practice Groups in various subject areas. Practice Groups will provide Executive Department attorneys with a forum in which members can discuss recent developments in the law and share ideas on how these developments affect their practice. The benefits of Professional Practice Group formation include:

- Focus on issues that arise in working with the Governor and Executive Department agencies.
- Deal with issues that pertain to the broad concept of "government practice".



## EXECUTIVE DEPARTMENT LEGAL COUNSEL

### Professional Practice Groups (continued)

- Improve the efficiency and work product of all Executive Department attorneys by providing an opportunity to share ideas with colleagues outside of their assigned agencies. Members are expected and encouraged to request and provide advice on how to resolve novel legal and procedural issues that arise in a particular practice area.
- Ensure that similar issues in different agencies are addressed in a consistent manner to the ultimate benefit of all agencies, attorneys, and the Governor.

In late 2003, Executive Department Legal Counsel were sent a survey to develop an inventory of their professional education, training and skills and to identify which Practice Groups would be most interesting and helpful to them. The proposed Practice Groups are:

- Contracts and Procurement Legislative Drafting and Regulatory Procurement
- Labor and Employment Law
- Real Estate and Conveyancing
- Construction and Infrastructure Development
- Litigation Family Law



## EXECUTIVE DEPARTMENT LEGAL COUNSEL

### Professional Practice Groups (continued)

- Technology Law
- Education
- Health Care
- Administrative Law
- Environmental Law

These Practice Group designations will be revised to meet the survey results and to complement the work of the Executive Counsel Professional Development Group described below.





## EXECUTIVE DEPARTMENT LEGAL COUNSEL

### Professional Development and Training

In addition to spurring the creation of Professional Practice Groups to better utilize the talents of in-house counsel, G. L. c. 30, § 65 has created opportunities for cross-training of in-house lawyers. By offering professional development and training to in-house lawyers, the Governor's Chief Legal Counsel aims to accomplish three objectives: (1) increase the number of attorneys who are trained and available to assist other agencies in accordance with the statute; (2) enhance personal and professional growth of in-house lawyers by offering them new intellectual challenges; and (3) improve in-house counsel morale by providing networking opportunities with multiple potential host agencies in situations where they are interested in moving from their host agency. These objectives will be accomplished as follows:

On September 30, 2003, the Executive Department Legal Counsel hosted the first-ever all lawyer educational conference at Suffolk University's Walsh Theatre. The topic for the morning plenary session focused on ethical compliance by government lawyers: "Who's the Client?" featuring a panel of academic, public sector, private sector and union representatives. The afternoon featured optional seminars on trial practice techniques, with presentations by two Superior Court judges. Subject to funding, the Executive Department Legal



## EXECUTIVE DEPARTMENT LEGAL COUNSEL

### Professional Development and Training (continued)

Counsel will meet in one annual all-lawyer educational conference with several Practice Group specific seminars offered during the year at various times. The seminars will use the talents of in-house counsel and other volunteers to serve as faculty members and program planners.

The Chief Legal Counsel has drawn from numerous volunteers to create a Professional Development Group for the in-house lawyers, co-chaired by OSD General Counsel Bill McAvoy and Comptroller Deputy Legal Counsel Jenny Hedderman. We are indebted to all of these lawyers for taking time from their own schedules to serve the professional development interests of their colleagues. The group was formed in late 2003 and consists of the following:





## Executive Counsel Professional Development Practice Groups

### Agency Counsel Resources Practice Group

Chairpersons: Gail Gabriel (Division of Professional Licensure) and Linda Barlow (Dept. of Mental Health)

Contact: Linda Barlow/DMH (508) 977-3382 [Linda.Barlow@dmh.state.ma.us](mailto:Linda.Barlow@dmh.state.ma.us)

In order to enhance the expertise of agency counsel and provide opportunities for exploration of new areas of the law, information will be made available to agency counsel from a wide range of sources. The focal point will be the "Virtual Law Office", which will be an on-line source of information, guides and resources that are of particular interest to agency counsel. Priority will also be given to connecting agency counsel to training offered by the Human Resources Division, and the programming available through bar associations and law schools. To the extent possible, discounts for bar memberships and related items will be obtained.

### Alternative Dispute Resolution and Collaborative Processes Practice Group

Chairpersons: Susan Jeghelian (MA Office of Dispute Resolution) and Jamey Tesler (Governor's Legal Office)

Contact: Susan Jeghelian (617) 727-2224, x 21174 [Susan.Jeghelian@state.ma.us](mailto:Susan.Jeghelian@state.ma.us)

The purpose of the Alternative Dispute Resolution (ADR) & Collaborative Processes Practice Group is to raise awareness about available resources such as the Massachusetts Office of Dispute Resolution and to support executive legal counsel in assessing conflicts, selecting appropriate processes, building knowledge and skills, and developing programs and systems for their agencies. The use of ADR and collaborative processes will enable agency counsel to more effectively prevent and manage internal and external conflicts, problem-solve and build agreement on priority issues, and make more efficient use of agency resources.

### Construction and Real Estate Practice Group

Chairpersons: Bob McGuinness (Div. of Capital Asset Management) and Dave Veator (Mass. Highway Dept.)

Contact: [Carol.Wheeler@dcp.state.ma.us](mailto:Carol.Wheeler@dcp.state.ma.us) (617) 727-4053, x 303

Our mission is to serve the lawyers of the Commonwealth by providing continuing legal education programs geared towards enhancing legal skills and knowledge in construction and real estate law and by providing Commonwealth lawyers with access to other construction and real estate practitioners for the mutual exchange of information, advice and work product relative to these practice areas.

### Contracts, State Finance and Procurement Practice Group

Chairpersons: Bill McAvoy (Operational Services Division) and Jenny Hedderman (State Comptroller's Office)

[Jenny.Hedderman@osc.state.ma.us](mailto:Jenny.Hedderman@osc.state.ma.us) (617) 973-2656 [William.McAvoy@osd.state.ma.us](mailto:William.McAvoy@osd.state.ma.us) (617) 720-3327

The Contracts, State Finance and Procurement Practice Group will provide guidance, resources and opportunities to assist executive counsel with advising their agencies on procurement, contract and state finance matters and on interpreting and adhering to procurement, contract and state finance laws, regulations, policies and practices

### Education and Health and Human Services Practice Group

Chairpersons: Kris Apgar (Health and Human Services) and Rhoda Schneider (Dept. of Education)

Contact: [Edwige.Bernier@ehs.state.ma.us](mailto:Edwige.Bernier@ehs.state.ma.us) (617) 573-1651

The mission of the Education and Health & Human Services Practice Group is to present and discuss significant issues, new developments and practice tips of particular interest to attorneys in the health & human services and education agencies. The group will focus on issues with interagency implications, including education law, health law, child welfare and child guardianship, disability law, juvenile justice and services for incarcerated youth, information-sharing among agencies that deal with children's issues, in relation to HIPAA, FIPA and FERPA and other privacy laws.





## Executive Counsel Professional Development Practice Groups

### Environmental, Land-Use and Planning Practice Group

Chairpersons: Larry McCormick (Dept. of Agricultural Resources) and  
Peter Wilson (Div. of Capital Asset Management)

Contact: [Cynthia.Casimiro@state.ma.us](mailto:Cynthia.Casimiro@state.ma.us) (617) 727-4050, x 437

Our mission is to provide executive office environmental and land use attorneys with continuing legal education and professional development opportunities advancing the level of practice and enhancing the quality of environmental law and land use planning legal services delivered to the Commonwealth of Massachusetts.

### Labor and Employment Law Practice Group

*Chairpersons: John Marra (Human Resources Division) [J.Marra@brd.state.ma.us](mailto:J.Marra@brd.state.ma.us) (617) 727-3555, x 28779 and Michele Heffernan (Human Resources Division) [M.Heffernan@brd.state.ma.us](mailto:M.Heffernan@brd.state.ma.us) (617) 727-3555, x 28776*

The Labor and Employment Practice Group brings together state attorneys who practice before labor arbitrators, state agencies and state courts in the area of labor law, employment discrimination and workers' compensation. The group publishes a quarterly labor and employment law reporter summarizing recent labor cases and meets regularly to discuss recent developments in the area of labor and employment law.

### Law and Policy: Legislative Drafting and Regulatory Promulgation Practice Group

Chairpersons: Linda Barlow (Dept. of Mental Health) and Thomas LaRosa (Environmental Affairs)

Contact: Linda Barlow/DMH (508) 977-3382 [Linda.Barlow@dmh.state.ma.us](mailto:Linda.Barlow@dmh.state.ma.us)

[<mailto:Linda.Barlow@dmh.state.ma.us>](mailto:Linda.Barlow@dmh.state.ma.us)

The overarching purpose of the Law and Policy Group is to enhance the knowledge and skills base of executive branch legal counsel in the effective translation of policy into law. Our goal is to enhance the expertise of agency counsel familiar with legislative and regulatory matters, as well as to provide an opportunity for others to develop the basic skills in these areas. Programming will focus on: (a) legislative theory and methodology; (b) the interrelationship between law and policy; (c) providing agency counsel with minimal experience with "how to" information regarding legislation and regulations (drafting, filing, the promulgation process, and interpretation); (d) providing experienced agency counsel with additional expertise in these areas; and (e) facilitating a forum for agency counsel, regardless of experience level, to discuss or collaborate regarding legislative or regulatory matters or drafting skills.

### Litigation and Administrative Law Practice Group

Chairpersons: Chris Connolly (Div. of Administrative Law Appeals), Gail Gabriel (Div. of Professional Licensure) and  
Dan Less (Sex Offender Register Board)

Contact: [maria.s.silva@state.ma.us](mailto:maria.s.silva@state.ma.us) (617) 727-7146

The mission of the Litigation and Administrative Law Practice Group is to serve the lawyers of the Commonwealth by providing continuing legal education programs geared toward enhancing: (a) the advocacy skills of executive counsel representing their agencies and agencies' employees in state and federal courts and administrative hearings; and (b) enhancing the adjudicatory skills of the hearing counsel who conduct the formal administrative proceedings.

### Professional Ethics Practice Group

Chairperson: Joanne Driscoll Campbell (Criminal History Systems Board)

(617) 660-4762 [jdriscollcampbell@chs.state.ma.us](mailto:jdriscollcampbell@chs.state.ma.us)

The goals of the Committee on Professional Ethics are three-fold: to provide state agency attorneys with biannual seminars focusing on ethical questions confronting state attorneys; to highlight revisions to the Massachusetts Rules of Professional Conduct and important cases and opinions via the Virtual Law Office; and to serve as a resource for state attorneys to pose questions for future seminars and meetings. The Committee also seeks to emphasize the importance of exercising professional courtesy in one's role as a member of the Executive Legal Department.



## Executive Counsel Professional Development Practice Groups

### **Public Records / Records Management Practice Group**

Chairperson: Cushing Giesey (Department of Transitional Assistance)

Cushing.Giesey@state.ma.us (617) 348-8531

The Public Records / Records Management Practice Group seeks to assist Executive Legal Counsel in handling issues concerning state and federal public records law, personal data law and related matters such as records management and records retention. The Public Records / Records Management Practice Group invites participation of Executive Legal Counsel who have some expertise in the covered subject matter, as well as those who wish to increase their knowledge and skill in this broadly applicable and constantly evolving practice area.

### **Technology Law Practice Group**

Chairperson: Linda Hamel (Information Technology Division)

Linda.Hamel@itd.state.ma.us (617) 626 4404

The mission of the Technology Law Practice Group is to provide training and support to Executive Department agency lawyers with respect to technology law matters that agencies face as the Commonwealth engages in an increasing amount of electronic government. The Technology Law Practice Group will identify technology-related legal issues relevant to Executive Department legal practice, identify consensus legal opinions on such issues, and create tools to assist Executive Department lawyers in addressing them.





## EXECUTIVE DEPARTMENT LEGAL COUNSEL

### Employee Recognition

The Commonwealth's ability to reduce the costs of outside counsel and rely on existing resources depends on in-house counsel who are willing to go beyond the call of duty of their host agencies and volunteer to assist other agencies. Within their host agencies, in-house counsel perform invaluable professional service that minimizes the need for outside counsel and allows host agencies to redirect their budget dollars to core agency missions. It is important that Executive Department Legal Counsel be recognized for their many contributions to public service.

In the Autumn of 2003, the Governor's Chief Legal Counsel formed a labor-management group consisting of union leaders, secretariat counsel and agency counsel to solicit nominations of in-house counsel for special recognition and praise. The labor-management group will review all nominations in the Spring and select employees or groups of employees for recognition at the next Executive Department Legal Counsel all-lawyer educational conference. A sample of the nomination form is included in the Appendix.





## EXECUTIVE DEPARTMENT LEGAL COUNSEL

### Outside Counsel Utilization

According to fiscal data available from the Office of the Comptroller, Executive agency expenditures for outside counsel decreased 20% from \$3,899,969 in the first two quarters of FY03 to \$3,101,278 for the same period in FY04. Most of the outside counsel expenditures reflect ongoing legal services contracts that predate the enactment of G. L. c. 30, § 65. The detailed description of the outside legal services under contract follows this summary page.

Most agencies have shifted their focus away from outside lawyers as a matter of course and utilize in-house lawyers where possible. According to DCAMM, for example, DCAMM has markedly decreased the use of outside counsel from \$800,000 yearly to \$400,000 yearly to about \$200,000 this year. How? By hiring competent in-house counsel to perform tasks that had routinely been performed by outside counsel until this year. The cost savings to the agency are immediate. The Chief Legal Counsel will continue to meet with the heads of agencies that continue to utilize outside lawyers to encourage development of in-house capability for tasks that comprise the core mission of such agencies.



## ADMINISTRATION AND FINANCE

AGENCY/MATTER	LAW FIRM	LAWYERS/RATES
PERAC: Tax counsel	Ice Miller	Mary Beth Braitman/Terry Mumford: \$246.50/hr; Lisa Harrison: \$140.25; Gregory Wolf: \$119/hr
PERAC: Independent review and assistance in regard to regulatory matters	Nutter, McClennen & Fish LLP	Partners (\$330-\$480/hr); Jr. Partners (\$265-\$300); Associates (\$175-\$265); Paralegals (\$120-\$140)
ITD: misc. IT issues, including records retention issues and web site advice	N/A	Ray Campbell (\$150/hr)
ITD: trademark and IP work	Bromberg, Sunstein	Fixed cost project: \$19,000
ITD: technology licencing	Bingham McCutcheon	Sarah Gagan/Wayne Bennett: \$476/hr
DCAMM: misc. legal review; Taunton Trial Court	Rackemann, Sawyer & Brewster	Lauren Armstrong, Henry Thayer: \$225/hr Susan Cordner, Madelyn Rankin: \$110/hr
DCAMM: redevelopment study for 105 S. Huntington Ave.	Palmer & Dodge LLP	David Rodgers, Walter St. Onge: \$331/hr Kathryn Cochrane Murphy: \$298/hr
DCAMM: Middlesex HOC; New Plymouth Trial Court	Krokidas & Bluestein	Maria Krokidas: \$270/hr Elizabeth Ross: \$260/hr Mollie Finnan: \$85/hr
DCAMM: study and RFP for Barnstable County Jail; redevelopment costs for Danvers St. Hospital; misc. advice; metropolitan state hospital reuse plan Marketing and disposition of Foxborough St. Hospital; Lawrence Mills redevelopment; Hampden County Women's Correctional Facility; UMA Engineering/Computer Science Complex Phase I	Gadsby & Hannah	Richard Allen, Joseph Barra, Leigh Gilligan, Cynthia Keliher: \$300/hr Suzanne St. Charles: \$260/hr Jay Philp, Jason Sweatt: \$225/hr Claire Norfolk: \$90/hr



ECONOMIC AFFAIRS

AGENCY/MATTER		LAW FIRM	LAWYERS/RATES
DUA: legal advice on employment issues, including issues involving defamation; defend against claims filed by former DET employees		Morgan, Brown & Joy	Laurence Donoghue: \$145/hr.
DIA: collection work including bankruptcy, judgments and executions		McKenzie & Associates	Denzil McKenzie: \$225/hr.; Jonathan Crowley and Martha Wishart: \$185/hr.





CONSUMER AFFAIRS AND BUSINESS REGULATION

AGENCY/MATTER		LAW FIRM	LAWYERS/RATES
DOI: various receivership and financial oversight issues with insurers		Rackemann, Sawyer & Brewster	J. David Leslie: \$330/hr.; Ronald Duby and Eric Smith: \$300/hr.



HEALTH AND HUMAN SERVICES

AGENCY/MATTER	LAW FIRM	LAWYERS/RATES
DSS: immigration services for children who won't be returning to parents	Kaplan, O'Sullivan & Friedman	Maureen O'Sullivan; \$350/case (extra work \$150/hr for attorney; \$75/hr for paralegal)
DSS: obtains cost shares for children in custody who are in need of special ed services	McGee and Schiavoni	Tom Schiavoni: \$150/hr
DPH: lead paint prosecutions	N/A	Lori Cianciulli William Guaglia Tom Vukmirovits Stephen Wasserman Leslie Brown \$50/hr
DPH: legal support for emergency preparedness for federal bioterrorism grant program; regulatory reform of food and drug programs	N/A	Pricilla Fox: \$50
DPH: represent DPH in guardianship litigation for western Mass. Hospital	N/A	Patrick Murray: \$500 per case (uncontested guardianship; no Rogers); \$700 per case (with Rogers issues); \$850 per case (guardianship with request for cessation of life support); \$400 per motion to amend or extend Rogers treatment orders; \$130/hr on contested cases



HEALTH AND HUMAN SERVICES (cont.)

AGENCY/MATTER	LAW FIRM	LAWYERS/RATES
DMH: handles follow-up from clean state environmental initiative	Connor & Hilliard	Michael Porter: \$185/hr
DMA/DHCFP: through AG, represent DMA in Florida bankruptcy case	Nutter, McClellan & Fish LLP	Tom Bean: \$375/hr Eric Magnuson: \$245/hr Robert Paterno: \$205/hr Sarah Manning: \$185/hr Heather Dye: \$135/hr (paralegal)
DMR: IT procurement and submission to federal CMS; assist in negotiations and coordination of vendor services	Bingham McCutcheon LLP	Sarah Gagan: \$369/hr Wayne Bennett: \$612/hr
Elder Affairs: act as hearing officers in home care client appeals and prescription advantage appeals	N/A	Andrew Hyams Susan Wilson \$50/hr





PUBLIC SAFETY

AGENCY/MATTER	LAW FIRM	LAWYERS/RATES
Chief Medical Examiner: representing 3 individual employees in civil litigation	Faxon & Laredo	Mark Smith: hourly rate
DOC: handles show cause criminal hearings of individual officers	N/A	Michael Donahue: \$80/hr
Mass State Police: arbitration b/t Commonwealth and SPAM; civil rights defense litigation	Kopelman & Paige	David Jenkins: \$125/hr
Mass State Police: inmate criminal complaint hearing for Director of Crime Lab	N/A	Michael Donahue: \$80/hr
Mass State Police: civil rights defense litigation	Law Offices of Timothy M. Burke	Timothy Burke and sr attorneys: \$250/hr Joseph Kittredge, Brian Rogal, Joseph Donnellan, Shelia McCravy, Scott Dunlap, Suzanne Caravaggio: \$140/hr  MSP pays him at \$125/hr rate
Mass. State Police: civil rights defense litigation	Brody, Hardoon, Perkins & Kesten	Leonard Kesten: \$300/hr Tom Campbell: \$200/hr  MSP pays them at \$125/hr
RMV: labor and employment matters	N/A	Jean Berke: \$50/hr



OCD

AGENCY/MATTER	LAW FIRM	LAWYERS/RATES
DHCD: legal advice regarding allowable uses of state bond proceeds	Palmer & Dodge LLP	\$267.75-\$437.75/hr (names in all boxes)
DHCD: legal advice regarding allowable uses of state bond proceeds	Bowditch & Dewey LLP	\$200-\$250/hr
DHCD: legal advice concerning allowable uses of state bond proceeds	Gadsby & Hannah LLP	\$160-\$325/hr
DHCD: general tort claims; discrimination and harassment claims	Curley & Curley P.C.	\$105-\$142.50/hr
DHCD: general tort claims; discrimination and harassment claims	Hassett & Donnelly P.C.	\$80-\$110/hr
DHCD: general tort claims; discrimination and harassment claims	Matroni, Dimauro, Liebel & deSousa	\$120/hr
DHCD: general tort claims; discrimination and harassment claims	N/A	Maureen Reilly: \$120/hr
DHCD: special counsel for HOME program and Housing Stabilization Fund program loans	Bartlett Hackett Feinberg P.C.	\$200/hr \$125-\$200/hr re: Housing Innovations Fund and Facilities Consolidation Fund
DHCD: special counsel for HOME program and Housing Stabilization Fund program loans	N/A	Kenneth B. Gould: \$140/hr \$175/hr re: Housing Innovations Fund and Facilities Consolidation Fund
DHCD: special counsel for HOME program and Housing Stabilization Fund program loans	N/A	Roberta L. Brundrett: \$125/hr
DHCD: special counsel for HOME program and Housing Stabilization Fund program loans	Piper Rudnick LLP	\$190-\$420/hr
DHCD: special counsel for Housing Innovations program and Facilities Consolidation Fund program loans. Services for HOME and HSF programs	Sherin and Lodgen LLP	\$150-\$195/hr
DHCD: special counsel for Housing Innovations program and Facilities Consolidation Fund program loans.	Krokidas & Bluestein LLP	\$145-\$250/hr



OCD (cont.)

AGENCY/MATTER	LAW FIRM	LAWYERS/RATES
<b>DHCD:</b> special counsel for Housing Innovations Fund and Facilities Consolidation Fund program loans; services for HOME and HSF programs	N/A	James L. Buechl: \$190/hr
<b>DCHD:</b> special counsel for Housing Innovations Fund and Facilities Consolidation Fund program loans; services for HOME and HSF programs	N/A	Russell Chin: \$215/hr
<b>DCHD:</b> litigate against Local Initiative Program developer to enforce terms of a regulatory agreement	Brooks Associates	\$130/hr





# EOTC

AGENCY/MATTER		LAW FIRM	LAWYERS/RATES
MHD: employment litigation		Jackson Lewis	Joan Ackersstein: \$250/hr
MHD: Rte 3 Transportation Improvements Project		Foley Hoag	Jeffrey Mullan: \$295/hr
ROW Bureau: title exams; property rundowns; eminent domain		Law Offices of William A. Snider	Timothy Reynolds Sarah Strebel Cameron \$300/title exam; \$120/title run down; unusually complicated matters: \$60/hr
ROW Bureau: title exams; property rundowns; eminent domain		N/A	Marc Springer \$300/title exam; \$120/title run down; unusually complicated matters: \$60/hr
ROW Bureau: title exams; property rundowns; eminent domain		N/A	David MacIntyre \$300/title exam; \$120/title run down; unusually complicated matters: \$60/hr
ROW Bureau: title exams; property rundowns; eminent domain		N/A	Robert Walsh \$300/title exam; \$120/title run down; unusually complicated matters: \$60/hr
ROW Bureau: title exams; property rundowns; eminent domain		N/A	Edward Casey \$300/title exam; \$120/title run down; unusually complicated matters: \$60/hr
ROW Bureau: title exams; property rundowns; eminent domain		N/A	Michael Delaney \$300/title exam; \$120/title run down; unusually complicated matters: \$60/hr
ROW Bureau: title exams; property rundowns; eminent domain		N/A	Catherine Wright \$300/title exam; \$120/title run down; unusually complicated matters: \$60/hr
ROW Bureau: title exams; property rundowns; eminent domain		N/A	Michael Riordan \$300/title exams; \$120/title run down; unusually complicated matters: \$60/hr



EOTC (cont.)

AGENCY/MATTER	LAW FIRM	LAWYERS/RATES
ROW Bureau: title exams; property rundowns; eminent domain	N/A	Ronald Nacamuli \$300/title exam; \$120/title run down; unusually complicated matters: \$60/hr
ROW Bureau: title exams; property rundowns; eminent domain	N/A	Martin Keogh \$300/title exam; \$120/title run down; unusually complicated matters: \$60/hr
ROW Bureau: title exams; property rundowns; eminent domain	Cossingham Law Offices P.C.	Kenneth Cossingham Scott Lakin \$300/title exam; \$120/title run down; unusually complicated matters: \$60/hr
ROW Bureau: title exams; property rundowns; eminent domain	N/A	Sidney Schneider \$300/title exam; \$120/title run down; unusually complicated matters: \$60/hr



## EXECUTIVE DEPARTMENT LEGAL COUNSEL

### Improving Outside Counsel Competition

The Chief Legal Counsel has worked with OSD to amend the procurement regulations and to prepare a comprehensive Legal Services RFR that will be available for use by the Executive agencies by mid-2004 when the VLO becomes operational. With the availability of the RFR, even pre-existing legal services contracts will need to be rebid to assure utilization of in-house counsel or the best value for outside legal services. Copies of the amended regulation and draft Legal Services RFR are included in the Appendix.

The new procedures for increasing competition among qualified outside counsel includes a first-ever reverse auction Legal Bidline in conjunction with the VLO. The Legal Bidline guidelines were not completed by December 31, 2003 but are expected to be included in the VLO. In essence, the Legal Bidline will enable all qualified lawyers and law firms to submit their bids anonymously but online so all bidders can see the pending bid. Unlike sealed bids, where the bidders have no opportunity to compete after bids are revealed, the Legal Bidline will promote repeat bids by qualified bidders to provide the lowest possible price to the Commonwealth. Under "best value" requirements of state law, the Executive agency seeking outside counsel will not be required to engage the lowest bidder. However, any agency head who selects a lawyer or firm other







## **EXECUTIVE DEPARTMENT LEGAL COUNSEL**

### Improving Outside Counsel Competition (continued)

than the lowest bidder will be required to justify the decision by reference to the particular needs of the agency and demonstrated strengths of the selected firm or lawyer.

The new procedures to encourage competition between outside counsel will further reduce the costs of outside counsel even when outside counsel is required to meet the legal needs of the Executive agency.



## EXECUTIVE DEPARTMENT LEGAL COUNSEL

### Reducing Outside Counsel Fees

G. L. c. 30, § 65 has, for the first time, invested oversight of outside counsel in the Governor's Chief Legal Counsel. Past practice had dissipated outside counsel hiring and billing practices at the agency level, resulting in widely divergent policies concerning outside counsel billing. As a result of the new statute, the Governor's Chief Legal Counsel has taken several steps to decrease outside counsel fees:

- Uniform Billing Guidelines: In late 2003, the Office of the Governor's Legal Counsel drafted a uniform billing guideline to govern fees paid to outside counsel. With a few exceptions at the agency level, these are the first Uniform Billing Guidelines that will be applicable to all outside counsel engaged by the Commonwealth. A copy of the Uniform Billing Guidelines is included in the Appendix.
- Ebilling: The VLO will include a link for ebilling in which outside counsel will be required to submit all invoices for legal services electronically via the VLO. Outside counsel bills currently are submitted in paper form at each agency level with no standard format to ease review. The ebilling capability also will permit Executive Department Legal Counsel managers to know at a glance how much a particular firm or case has cost. Ebilling is expected to



## EXECUTIVE DEPARTMENT LEGAL COUNSEL

### Reducing Outside Counsel Fees (continued)

reduce the administrative expense and delays associated with paper invoices.

- Legal Audit: As part of the ebilling capability, all bills submitted by outside counsel will be subject to professional audit to assure compliance with the Uniform Billing Guidelines before payment is made. In late 2003, OSD was preparing an RFR for legal audit services that will be appended to all outside legal services contracts and require outside counsel to bear the cost of legal audit. Legal audits will further reduce the amount of fees paid annually to outside counsel.





## EXECUTIVE DEPARTMENT LEGAL COUNSEL

### Budget Request

G. L. c. 30, § 65 has opened a wide range of new possibilities in the organization, operation and management of the Executive Department Legal Counsel. Much work has been done to build a foundation to further improve utilization of in-house counsel and to reduce the costs of outside counsel, while maintaining a high level of professional excellence to serve the Commonwealth's legal needs. G. L. c. 30, § 65 is as much about tearing down walls as it is building foundations.

Massachusetts spends more than \$38 million yearly on its in-house legal counsel. Amazingly, we spend no money on legal management or training of our lawyers. At the request of the Chief Legal Counsel, the Governor's House 1 budget includes an appropriation of \$300,000 for Statewide Legal Management and Administration to create the full-time position of Legal Administrator and to fund training for all in-house counsel on a regular basis. The savings achieved by this expenditure more than outweigh the cost of the appropriation. For example, the Executive agencies currently spend more than \$1 million yearly on electronic legal research. Each agency separately negotiates, contracts and pays for such services. If Massachusetts instead had a single contract for legal research services, funded by the line item for Statewide Legal Management, the cost of the contract has been quoted by vendors to be less than \$100,000. These cost-savings from a central Legal Management account will



offset the entire appropriation request.

Detailed justification of the Statewide Legal Management funding, which has been provided to the House and Senate Ways and Means Committees, is listed on the following page.



Budget Description for ANF  
**1100-1119 STATEWIDE LEGAL MANAGEMENT AND COORDINATION**  
Daniel B. Winslow, Governor's Chief Legal Counsel

Line item 1100-1119, "Statewide Legal Management and Coordination," is proposed for funding at \$300,000. Savings that can be achieved in FY05 will offset the cost of this line item. This line item would accomplish three major objectives as more fully described below:

- Save money by economies of scale purchase of electronic legal research and professional support for all Executive Department Legal Counsel in the secretariats and executive agencies;
- Create a Legal Administrator function to maximize utilization of in-house lawyers and reduce costs of outside counsel in accordance with G.L. c. 30, § 65;
- Improve training and professional development of in-house lawyers to encourage greater use of in-house lawyers pursuant to G.L. c. 30, § 65 and improve risk assessment and reduction of legal liability by improved legal training.

Legal Research and Professional Support Economies of Scale: \$85,000

Each agency separately procures electronic legal research and publications for agency legal staff. For the period of 7/1/02 to 11/10/03, according to invoices provided by the Comptroller's Office, executive agencies spent \$1,036,151.77 for electronic legal research. By contrast, the Governor's Chief Legal Counsel has received an offer from a major legal research vendor for unlimited electronic legal research for all Executive Department Legal Counsel in the amount of \$87,696 yearly in a single contract. This amount likely will be further reduced after competitive procurement. With over 80 separate agencies, procurement by ISAs is impracticable. **The Statewide Legal Management line item thus will create savings of at least \$700,000 annually.**

Legal Administrator: \$90,000

G.L. c. 30, § 65 permits agency lawyers, unique among employees in the Executive Branch, to work across agency lines to promote use of in-house lawyers rather than outside counsel within lawyers' areas of expertise. This statute is a tremendous tool to reduce costs of outside counsel and to improve utilization of in-house legal talents. Currently there is no dedicated management of Executive legal operations. Coordination of the hundreds of in-house and outside legal counsel, competitive selection of outside counsel, development of policies/practices to promote more efficient management of the Executive Department Legal Counsel and oversight of lawyer training and professional





development requires a full-time position of Legal Administrator. This position will work within and be supported by the Office of the Governor's Chief Legal Counsel. **Professional legal administration will maximize savings potential envisioned by the enactment of G.L. c. 30, § 65.**

Legal Training and Professional Development: \$125,000

Although the Commonwealth expends more than \$30 million yearly for Executive Department Legal Counsel in the agencies, there is no significant training provided for inhouse lawyers. The lack of legal training has resulted in adverse MCAD and judicial judgments and restricts the ability to best utilize inhouse counsel across agency lines pursuant to G.L. c. 30, § 65. Although this requested funding is significantly below the level of legal continuing training provided in the private sector, this funding will permit an Executive Department Legal Counsel educational conference, quarterly professional practice group training seminars using inhouse volunteer faculty, and vouchers to permit inhouse counsel to attend one Massachusetts Continuing Legal Education or bar association sponsored training seminar yearly.

Please do not hesitate to contact the Governor's Chief Legal Counsel, Daniel B. Winslow, at 617-725-4030 or [Daniel.Winslow@state.ma.us](mailto:Daniel.Winslow@state.ma.us) for more information.



## APPENDIX A: SUMMARY OF OUTSIDE LEGAL SPENDING



Outside Counsel Spending (operating, capital, trust and federal)		
	FY03	FY04
1st 2 Quarters	\$3,899,969.28	\$3,101,276.09





APPENDIX B: REQUEST FOR OUTSIDE COUNSEL FORM





# THE COMMONWEALTH OF MASSACHUSETTS

Office of the Governor's Chief Legal Counsel

## Request to Retain Outside Legal Counsel

### General Information:

Requesting Agency Name: \_\_\_\_\_

Requestor Name/Title: \_\_\_\_\_

Requestor's Telephone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_

### Assessment of Legal Needs:

*Describe the type of legal services that are needed by the requesting agency, including the legal tasks that need to be completed and an explanation of the reasons that the services are required.*

*Describe any specialized skills and qualifications that are required by the requesting agency in order to provide these services.*

*Demonstrate why the services are not currently available in the Commonwealth to carry out the scope of work described above.*

### Assessment of Financial Needs:

*Estimated number of hours needed to complete the tasks described above: \_\_\_\_\_*

*Estimated duration of the need for the specialized legal services described above, including the estimated start date: \_\_\_\_\_ and end date: \_\_\_\_\_*

*Total estimated cost in current Fiscal Year 200\_ = \$ \_\_\_\_\_*

*Total estimated cost in the next Fiscal Year 200\_ = \$ \_\_\_\_\_*



## APPENDIX C: EMPLOYEE RECOGNITION PROGRAM





EXECUTIVE DEPARTMENT LEGAL OPERATIONS  
EMPLOYEE RECOGNITION AWARDS

DESCRIPTION OF PROGRAM

We are proud to announce that the Executive Department Legal operations will begin our own **Employee Recognition Awards** program to recognize the many outstanding lawyers among us. We are fortunate to have a dynamic award committee that includes representatives from both labor and management -- the co-presidents of Unit 6, Theresa McGoldrick and Greg Sorozan; the General Counsel from the Department of Social Services, Virginia Peel; the acting General Counsel from the Department of Revenue, Steven Remsberg; and a deputy legal counsel from the Office of the Governor's Legal Counsel. The committee will work collaboratively with the Governor's Legal Counsel, Dan Winslow, to select all finalists.

The categories of awards are:

The Governor's Award for Excellence

This award will recognize employees who have performed above and beyond the call of duty, obtained a particularly good result for the Commonwealth in a case or matter, or in some other way provided superior service to the Commonwealth. This award may recognize either an individual employee or a group of employees who have worked together to reach a beneficial result. Anyone may nominate an employee or group of employees for this award at any time.

The Employee Hero Award

This annual award will recognize state employees who have performed as exemplary role models in state service. The recipient of this award will be nominated by a fellow employee. There will also be several honorable mentions for employee excellence.

The Secretariat General Counsel's Award

Each Secretariat General Counsel will nominate employees for this annual award, based on outstanding performance for the Secretariat.

Anniversary recognition awards

Anniversary recognition awards will recognize employees who have worked at a particular agency for 20+ years.



APPENDIX D: VLO REQUESTS FOR RESPONSE





Commonwealth of Massachusetts  
Executive Office of Administration And Finance

Information Technology Division and  
Operational Services Division

One Ashburton Place  
Boston, Massachusetts 02108-1552

# **Virtual Law Office (VLO) - Phase I**

## **Request for Response (RFR)**

**December 2, 2003**

**Commonwealth Contact Information:**

Bill McAvoy, General Counsel  
Operational Services Division  
C/O Michelle Burwell  
Information Technology Division  
One Ashburton Place, Room 801  
Boston, Massachusetts 02108  
Telephone: (617) 626-4527  
E-mail: [michelle.burwell@state.ma.us](mailto:michelle.burwell@state.ma.us)





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## I. Overview of Procurement

On behalf of the Commonwealth of Massachusetts Office of the Governor's Legal Counsel ("OGLC"), the Commonwealth's Information Technology Division ("ITD") and Operational Services Division ("OSD") are issuing this Request for Responses pertaining to the first phase of the development of a virtual law office ("VLO") serving the over 700 lawyers who work for the Executive Department of state government. The VLO will eventually provide a single web-based portal for the purpose of improving the legal services rendered to the Executive Department, providing its lawyers with state of the art legal practice technology and creating a "cyber community" of Executive Department lawyers. Currently, the VLO consists of an outward-facing website that is accessible to the public.

This RFR pertains to Phase I of the VLO project, which will focus on developing, hosting and testing a portal associated with a secure VLO, including: (1) a multilevel security system securing both access to the in-ward facing secure website available only to Commonwealth lawyers and access to particular segments of the secure website itself; (2) a database of Commonwealth Executive Department agency lawyer names, contact information, agency affiliations, and skills, and practice group affiliations themselves; (3) a site at which lawyers involved in particular practice groups can meet online to discuss a particular topic related to their practice; (3) a forms database; (4) home pages for each of the various practice groups that Executive Department lawyers will be joining; (5) a continuing legal education (CLE) page containing contact information, a self registration form for online registration for CLE courses, a store of materials from prior CLE courses, and a calendar for upcoming courses; (6) a page containing electronic legal research tools; (7) a page providing a secure link to the site of a legal audit firm, where agency counsel can have outside counsel bills audited; (8) an outside counsel site providing tools through which Governor's Legal can receive requests for outside counsel online from agencies and survey in-house counsel to see if needs can be met in-house and, if not, a mechanism, such as a chat room, for outside counsel on the approved list of outside counsel to file quotes for particular legal project; and (9) a link to an electronic billing utility through which agencies will be able to accept bills online from outside counsel.

In addition to developing the foregoing, the winning bidder will also host the secure VLO system both during system development and after system acceptance by ITD, for a period of up to six months.

## II. Acquisition Method

This Request for Response (RFR) is a goods and services procurement with a project-based fee. No bid that exceeds \$45,000 will be accepted. The project fee will be payable to the winning vendor in two installments, one at the time that the





VLO system is delivered and accepted by ITD and one at the conclusion of the hosting period that will follow systems development.

### **III. Vendor Qualification**

Vendors need not currently be on state contract to bid on this RFR. However, all vendors must, in order to bid on this procurement, be willing to (1) sign the mandatory Commonwealth legal forms described in section IX herein and (2) present a prototype of the attorney database.

### **IV. Contractor Request Type**

This RFR anticipates making an award to a single Contractor. Subcontractors may be used, but entirely at the risk of the designated Contractor. Contractors who use a subcontractor to complete any work engaged in for the purpose of fulfilling obligations undertaken under a contract entered under this RFR must provide a copy of their subcontract agreement with such subcontractor to ITD before it is signed.

### **V. Procurement Use**

Only the procuring departments will use this RFR.

### **VI. Anticipated Duration**

This RFR anticipates that the term of the contract entered under this RFR will be nine months or less, including (1) three months or less for development, starting at the date of contract award, followed by (2) a 6-month system hosting period. During both the development and the testing phases, the winning vendor will be providing secure hosting of the secure VLO at no additional cost to the Commonwealth.

### **VII. Costs Included in Bid**

Bids, which must not exceed \$45,000, must include the following costs, at a minimum:

- A. Hosting costs associated with hosting the secure VLO during the three-month development period and the six-month post-acceptance period, ending in October of 2004.
- B. Any and all costs associated with the development of Phase I of the secure VLO, including, without limitation, labor, the costs of all vendor and/or third party software licenses, databases, applets, graphics, and other related code.





## VIII. Procurement Calendar

Activity/Deadline:	Deadline Date/Time:
RFR posted on Comm-PASS:	Monday, December 2, 2003
Bidders' Written Questions Forwarded to Information Technology Division via email to <a href="mailto:michelle.burwell@state.ma.us">michelle.burwell@state.ma.us</a> :	Deadline: Tuesday, December 9, 2003 at 5:00 P.M.
PMT's responses to Bidders' questions posted online:	Tuesday, December 16, 2003
Mandatory Documents must be submitted to ITD and vendor prototypes must be posted online for ITD access:	Deadline: Tuesday, January 6, 2004 at 3:00 P.M.
Anticipated Procurement Management Team Notification of Final Bidder Selection:	January 20, 2004 (Estimated)

Please note that all times that are listed above are Eastern Standard Time.

## IX. General Information and Mandatory Terms and Conditions

### A. Procurement Team and Procurement Team Leader

**VLO PMT.** The members of the Procurement Management Team or "PMT" perform several functions in regard to this RFR and the subsequent Contract with the Bidder. The functions may include, but are not limited to, research, evaluation, and contract management/execution and performance management. The PMT members include but are not limited to representatives of ITD, OSD and the OGLC.

**Procurement Team Leader and Primary Contact.** The Procurement Team Leader ("PTL") and the Commonwealth's primary contact for this contract shall be William McAvoy, General Counsel, Operational Services Division (OSD). All electronic vendor documents required under this RFR shall be submitted to him care or Michelle Burwell in the Information Technology Division at [michelle.burwell@state.ma.us](mailto:michelle.burwell@state.ma.us). All paper vendor documents shall be submitted to William McAvoy, c/o Michelle Burwell, Information Technology Division, Room 801, One Ashburton Place, Boston, MA, 02108.

The PTL shall have the final authority, with the consultation of the VLO PMT, with respect to all operational matters with respect to this contract. The PTL, or his designee, must approve extensions, amendments, alterations, substitutions, or modifications to this contract prior to their implementation. The PTL will from time to time delegate PMT responsibilities in his absence.



## B. 801 CMR 21.00

The terms of 801 CMR 21.00: Procurement of Commodities and Services are incorporated by Reference into this RFR. Words used in this RFR **shall** have the meanings defined in 801 CMR 21.00. Additional and expanded definitions are also identified in this RFR. All terms, conditions, requirements, and procedures included in this RFR **must** be met for a Response to be determined responsive. If a Bidder fails to meet any material term, condition, requirement or procedure, its RFR Response **may** be deemed unresponsive and disqualified. Prospective Bidders should note that the RFR contains two (2) different types of RFR specification language:

If the RFR section is prefaced with language such as: “**shall**,” “**will**,” “**will not**,” “**may not**,” “**can not**,” “**can only**,” “**prohibited**,” “**must**,” or “**required**,” the Bidder **will** consider the section to be “mandatory,” or in other words critical for meeting the basic requirements to be considered for a Statewide Contract as the Selected Bidders.

If the RFR section is prefaced with language such as: “**may**,” “**could**,” “**suggested**,” and “**requested**,” the Bidder will consider the section to be “desirable,” or in other words optional for Bidder to respond to the RFR.

## C. Communications Requirements

Unless otherwise specified in this RFR, all communications, Responses, and documentation **must** be in English, all measurements **must** be provided in feet, inches, and pounds and all cost proposals or figures **must** be in U.S. Currency. All Responses **must** be submitted in accordance with the specific terms of this RFR.

Concerning this RFR, Bidders are **prohibited** from communicating directly with any member of the PMT except as specified in this RFR, and no other individual Commonwealth employee or representative is authorized to provide any information or respond to any question or inquiry. Bidders **may** contact the Procurement Team Leader (see section IX A herein) or designee for this RFR in the event this RFR is incomplete or the Bidder is having trouble obtaining any required attachments electronically through Comm-PASS.

## D. Reasonable Accommodations

The Procurement Team Leader (PTL) **may** provide reasonable accommodations, including the provision of informational material in an alternative format, for qualified Bidders with disabilities or other hardships. Bidders requiring accommodation **shall** submit requests in writing, with supporting documentation justifying the accommodation, to the PTL. The PTL reserves the right to grant or reject any request for accommodation.

## E. Public Records Law

All Responses and information submitted in response to this RFR are subject to the Massachusetts **Public Records Law**, M.G.L., Chapter 66, Section 10, and to Chapter 4, Section 7, Subsection 26, regarding public access to such





documents. Any statements, which reserve confidentiality or privacy rights in submitted Responses, or are otherwise inconsistent with these statutes, will be void and disregarded.

#### **F. No Guarantee of Purchase**

The Commonwealth makes no guarantee that any commodities or services will be purchased from any Contract resulting from this RFR. Any estimates or past procurement volumes referenced in this RFR are included only for the convenience of Bidders, and are not to be relied upon as any indication of future purchase levels. The Commonwealth does not guarantee any minimum quantity of purchases from any Contract resulting from this RFR.

#### **G. No endorsement or restriction**

Unless otherwise clearly stated in this RFR, any reference to a particular trademark, trade name, patent, design, type, specification, producer or supplier is not intended to restrict this RFR to any manufacturer or proprietor or to constitute an endorsement of any good or service. The PMT **may** consider clearly identified offers of substantially equivalent or better goods and services submitted in response to such reference.

#### **H. Alternatives**

If a Bidder is unable to meet any of the specifications required in this RFR, the Bidder's Response **must** include an alternative method for meeting such specification by identifying the specification, the proposed alternative, and thoroughly describing how the alternative achieves substantially equivalent or better performance than the performance required in the RFR specification. The PMT will determine if a proposed alternative method of performance achieves substantially equivalent or better performance. The determination of the PMT on the Bidder's proposed alternative method **will** be final.

The goal of this RFR is to acquire the best value of commodities and services for the Commonwealth. Bidders proposing alternatives which provide substantially better or more cost-effective performance than achievable under a stated RFR specification or Bidders that propose discounts, uncharged commodities and services or other benefits in addition to the RFR specifications **may** receive a preference under this RFR as specified.

#### **I. Negotiations**

The PMT and a selected Bidder **may** negotiate, either during a renewal period or as business conditions require, a change in any element of Contract performance or cost identified in the original RFR or the selected Bidder's or Contractor's RFR Response which results in lower costs or better value than was presented in the selected Bidder's or Contractor's original RFR Response.

#### **J. Format for Responses**

All Responses **must** be presented using the same numbering and ordering sequence used in this RFR or as otherwise specified by the PMT.





**K. Costs not identified in Bidder's Response**

Costs that are not specifically identified in the Bidder's Response and are included in the resulting Contract **will not** be compensated.

**L. Use of Comm-PASS**

All notifications, releases, and amendments to this RFR will utilize the **Commonwealth Procurement Access & Solicitation System (Comm-PASS)**. Visit on the Internet at: <http://www.comm-pass.com/> or contact Comm-Pass via phone: 1-888-MAState (888-627-8283) or E-mail: [Comm-Pass@state.ma.us](mailto:Comm-Pass@state.ma.us). This RFR has been distributed electronically using the Comm-PASS system. It **shall** be the responsibility of every Bidder to check Comm-PASS for any addenda or modifications to this RFR. The Commonwealth and its subdivisions accept no liability and will provide no accommodation to Bidders who fail to check for amended RFRs and submit inadequate or incorrect Responses. Potential Bidders are advised to check the "last change" field on the summary page of RFRs for which they intend to submit a Response to ensure that they have the most recent RFR files.

**M. No alteration of RFR Files**

Bidders **may not** alter (manually or electronically) the RFR language or any RFR component files. Modifications to the body of this RFR, its specifications, terms or conditions, are prohibited. Any unauthorized modifications may disqualify a Response.

**N. Costs and Expenses**

The Commonwealth **will not** be responsible for any costs or expenses incurred by Bidders responding to this RFR.

**O. Commonwealth Of Massachusetts Terms And Conditions & Standard Contract Form**

All Bidders who wish to do business with the Commonwealth of Massachusetts **will** be required to complete, execute and return the following six (6) documents, available online at:

<http://www.mass.gov/portal/index.jsp?pageID=agutility&agid=osd&agu=forms>

1. **The Commonwealth Terms and Conditions.** If the Bidder has already executed and filed the Commonwealth Terms and Conditions, please indicate this in your Response. The Commonwealth Terms and Conditions shall be incorporated by reference into any Contract for commodities and services executed pursuant to this RFR. A Bidder is **required** to execute the Commonwealth Terms and Conditions only once.
2. **The Commonwealth Standard Contract Form and Instructions must** be included in the Bidder's RFR Response. Failure to return a completed



and executed Standard Contract Form will disqualify the Bidder's Response. By executing this Standard Contract Form, the Contractor certifies under the pains and penalties of perjury that it has submitted a Response to a Request for Response (RFR) issued by the PMT and that this Response is the Contractor's offer as evidenced by the execution by the Contractor's authorized signatory, that the Contractor's Response may be subject to negotiation by the PMT, and that the terms of the RFR, the Contractor's Response and any negotiated terms shall be deemed accepted by the PMT and included as part of the Contract upon execution of the Standard Contract Form by the PTL, or his designee, as authorized signatory.

3. Massachusetts Substitute W-9 Form
4. Contractor Authorized Signature Verification Form
5. Business References Form
6. Northern Ireland Form

**Important Note:**

Bidders cannot re-negotiate the Massachusetts Terms and Conditions and/or the Standard Contract Form. The PMT acknowledges that several Bidders may have expressed reservations about the Commonwealth's Terms and Conditions; however, taking exception to this language may result in disqualification.

**P. Contract Term**

The term of the contract resulting from this RFR shall begin on the day that the contract is signed and end two hundred and seventy (270) days (roughly nine months) thereafter.

**Q. Contractual Order of Precedence**

The Contract resulting from this RFR will consist of the following documents in the following order of precedence:

1. The Commonwealth's Terms and Conditions;
2. The Commonwealth's Standard Contract Form;
3. This Request for Response;
4. The vendor's Response hereto; and
5. A Statement of Work to be negotiated by the parties prior to the award of the contract.

**R. Clarification to Section 11 of the Commonwealth's Terms and Conditions**

Pursuant to Section 11, Indemnification of the Commonwealth Terms and Conditions, the term "other damages" shall include, but shall not be limited to,





the reasonable costs the Commonwealth incurs to repair, return, replace or seek cover (purchase of comparable substitute commodities and services) under a Contract. "Other damages" shall not include damages to the Commonwealth as a result of third party claims, provided, however, that the foregoing in no way limits the Commonwealth's right of recovery for personal injury or property damages or patent and copyright infringement under Section 11, nor the Commonwealth's ability to join the Contractor as a third party defendant. Further, the term "other damages" shall not include, and in no event shall the Contractor be liable for, damages for the Commonwealth's use of Contractor-provided products or services, loss of Commonwealth records, or data (or other intangible property), loss of use of equipment, lost revenue, lost savings or lost profits of the Commonwealth. In no event shall "other damages" exceed the greater of \$100,000, or two times the value of the product or service (as defined in the Contract Scope of Work) that is the subject of the claim. Section 11. sets forth the entire liability under a Contract. Nothing in this section shall limit the Commonwealth's ability to negotiate higher limitations of liability in a particular Contract, provided that any such limitation must *specifically reference Section 11. of the Commonwealth Terms and Conditions.*

#### **S. Instructions for the Submission of Bids**

The Bidder **must** respond to the VLO RFR solicitation according to the procurement calendar outlined in section VIII of this RFR. Each RFR Response must be sealed, labeled, and submitted to William McAvoy, c/o Michelle Burwell, Information Technology Division, Room 801, One Ashburton Place, Boston, MA 02108, with the following identifying information on the outside of the submission:

- Bidder Name,
- Bidder Address
- Bidder Contact name, telephone number,
- RFR# VLO – Phase I
- Bidder Email address

**Electronic Communication/Update of Bidders/Contractors Contact Information.** Please note that it is the responsibility of the prospective bidder to keep the email address of their RFR contact person/prospective contract manager current and for monitoring his/her email inbox for communications from the PMT, including requests for clarification. The PMT and the Commonwealth assume no responsibility if a prospective bidder's email address is not current, or if technical problems, including those with the bidder's computer, network or internet service provider (ISP), cause e-mail communications sent to/from the prospective bidder and the PMT to be lost or rejected by any means including a spam filter.





The bidder must guarantee that all electronic submissions are virus-free. In addition, the Bidder's Web Page marketing submission, if included, **must** be generated in three formats: (1) paper (for the RFR Response), (2) HTML and (3) Adobe™ PDF format.

**Paper Submission** - The Bidder **must** submit one (1) original, unbound Response to the RFR on 8½" x 11" paper with original signatures and **two (2) bound copies** on 8½" x 11" paper. The PMT requests that the original RFR and copies be submitted on recycled paper. All RFR Response copies should be printed double-sided.

**Reduction of Non-recyclable or Non-reusable materials** - The Bidder is requested to minimize the use of non-recyclable or non re-usable materials such as plastic dividers, vinyl sleeves and GBC binding. Bidders are encouraged to use other products, which contain recycled content in their bid documents. Such products **may** include, but are not limited to, folders, binders, paper clips, envelopes, boxes, etc. Unnecessary samples, attachments, or documents not specifically requested in the RFR should not be submitted.

**Electronic Submission** - The Bidder **must** submit the RFR response online by sending it to [michelle.burwell@state.ma.us](mailto:michelle.burwell@state.ma.us). In addition, the vendor must mail to William McAvoy, c/o Michelle Burwell, Information Technology Division, Room 801, One Ashburton Place, Boston, MA 02108 seven (7) copies of the RFR Response on 3.5" diskette (**on seven (7) separate diskettes**). With respect to both electronic submissions, the Bidder **must** submit the RFR Response in two (2) formats: (1) Microsoft® Word 6.0/Windows95, Microsoft® Excel for Windows95, Version 7.0 or lower, and (2) Adobe™ PDF format. All copies of the electronic submission **must** be identical to information provided by the Bidder on the corresponding disk(s). **In the event of a discrepancy between a paper submission and electronic submission on disk, the paper submission will prevail.** The Bidder is requested to label all disks including the following information:

- Bidder Name,
- Bidder Address,
- Bidder Contact name, telephone number,
- RFR# VLO – Phase I

**Mandatory Documents to be included in Submission** - All responses to the RFR must include the following:

1. Signed copies of the following documents, each of which is available online at:  
<http://www.mass.gov/portal/index.jsp?pageID=agutility&agid=osd&agu=forms>
  - a. The Commonwealth's Terms and Conditions;



- b. The Commonwealth's Standard Contract Form and Instructions;
  - c. Massachusetts Substitute W-9 Form;
  - d. Contractor Authorized Signature Verification Form;
  - e. Business References Form, including at least two references; and
  - f. The Northern Ireland Form.
2. Resumes of all employees or subcontractors who will provide goods or services under a contract entered into under this RFR;
  3. A description of three projects in which the bidder has delivered goods and services for systems similar to the secure VLO Phase I project; and
  4. A response to this RFR describing how the vendor will meet the requirements of the RFR. The response must include both (1) a technical proposal and (2) a cost proposal. In addition, each RFR response must include all information specified in Attachment 1 hereto necessary to provide the PMT with FTP access to the bidder's prototype.

#### **T. Contract Expansion.**

If additional funds become available during the contract duration period, the department reserves the right to increase the maximum obligation of the contract executed as a result of this RFR or to execute contracts with contractors not funded in the initial selection process, subject to available funding, satisfactory contract performance and service or commodity need.

#### **U. Electronic Funds Transfer (EFT).**

All bidders responding to this RFR must agree to participate in the Commonwealth Electronic Funds Transfer (EFT) program for receiving payments, unless the bidder can provide compelling proof that it would be unduly burdensome. EFT is a benefit to both contractors and the Commonwealth because it ensures fast, safe and reliable payment directly to contractors and saves both parties the cost of processing checks. Contractors are able to track and verify payments made electronically through the Comptroller's Vendor Web system. EFT applications can be found on OSD forms page ([mass.gov/osd](http://mass.gov/osd)). Additional information about EFT is available on the VendorWeb site ([mass.gov/osc](http://mass.gov/osc): click on MASSfinance).

Successful bidders, upon notification of contract award, will be required to enroll in EFT as a contract requirement by completing and submitting the *Authorization for Electronics Funds Payment Form* to this department for review, approval and forwarding to the OGCLS. If the bidder is already enrolled in the program, it may so indicate in its response. Because the *Authorization for Electronic Funds Payment Form* contains banking information, this form, and any information contained on this form, shall not be considered a public record and shall not be subject to public disclosure through a public records request.





The requirement to use EFT may be waived by the PMT on a case-by-case basis if participation in the program would be unduly burdensome on the bidder. If a bidder is claiming that this requirement is a hardship or unduly burdensome, the specific reason must be documented in its response. The PMT will consider such requests on a case-by-case basis and communicate the findings with the bidder.

## **V. Information Technology Standards.**

All IT systems and applications developed by, or for Executive Department agencies or operating within the Massachusetts Access to Government Network (MAGNet), must conform with the Enterprise Information Technology Policies, Standards and Procedures promulgated by the Commonwealth's CIO as more specifically detailed in section X of this RFR. Non-conforming IT systems cannot be deployed unless the purchasing agency and their contractor have jointly applied for and received in writing from the Commonwealth's CIO or his designee, notice that a specified deviation will be permitted. The Enterprise Information Technology Policies, Standards and Procedures, including The Information Technology Division's Enterprise Open Standard/Open Source Policy and Information Technology Division's Enterprise Architecture Technical Reference Model, (both of which have been posted online for public comment), are all available online at [www.state.ma.us/itd](http://www.state.ma.us/itd).

With the exception of the Commonwealth's Public Access Architecture, is available at [mass.gov/itd](http://mass.gov/itd). The Commonwealth's Public Access Architecture is available in hard copy from the Information Technology Division (ITD) Customer Coordination Group (CCG: 617-626-4600).

Please Note: Given the pace of information technology innovation, purchasing agencies and their contractors are encouraged to contact the Information Technology Division (ITD) Customer Coordination Group (CCG: 617-626-4600) to signal a system or application design and development initiative. Such advance notice helps to ensure conformance with the relevant Enterprise Technology Policies, Standards and Procedures.





Contractor delivery of IT systems and applications that fail to conform to the Commonwealth's Enterprise Information Technology Policies, Standards and Procedures, absent the Commonwealth CIO's grant of written permission for a deviation, shall constitute breach of any contract entered as a result of this Request for Response and any subsequent Request for Quotes or other subsequent engagements related to this RFR. The Commonwealth may choose to require the contractor, at his own cost, to re-engineer the non-conforming system for the purpose of bringing it into compliance with Commonwealth Enterprise Information Technology Policies, Standards and Procedures.

#### **W. Northern Ireland Notice and Certification.**

All bidders must complete the Northern Ireland Notice and Certification form to satisfy M.G.L. c.7 section 22C, which states that no state agency may procure commodities or services from any bidder employing ten (10) or more employees in an office or other facility located in Northern Ireland unless the bidder certifies through the notice and certification form that, if it employs ten or more employees in Northern Ireland, a) the bidder does not discriminate in employment, compensation or the terms, conditions and privileges of employment on account of religious or political belief, b) the bidder promotes religious tolerance within the workplace and the eradication of any manifestations of religious and other illegal discrimination and, c) the bidder is not engaged in the manufacture, distribution or sale of firearms, munitions, including rubber or plastic bullets, tear gas, armored vehicles or military aircraft for use or deployment in any activity in Northern Ireland.

#### **X. Subcontracting Policies.**

Prior approval of the PMT is required for any subcontracted service of the contract. Contractors are responsible for the satisfactory performance and adequate oversight of its subcontractors. Subcontractors are required to meet the same state and federal financial and program reporting requirements and are held to the same state and federal financial and program reporting requirements and held to the same reimbursable cost standards as contractors.

#### **Y. Affirmative Market Program (AMP).**

Massachusetts Executive Order 390 established a policy to promote the award of state contracts in a manner that develops and strengthens Minority and Women Business Enterprises (M/WBEs) and resulted in the Affirmative Market Program in Public Contracting. As a result, M/WBEs are strongly encouraged to submit responses to this RFR, either as prime vendors, subcontractors, joint venture partners or other type of business partnerships.

A Minority Business Enterprise (MBE), Woman Business Enterprise (WBE), M/Non-Profit, or W/Non-Profit, is defined as such by SOMWBA. All



certified businesses are required to submit an up to date copy of their State Office of Minority and Women Business Assistance (SOMWBA) certification letter. The purpose for this certification is to participate in the Commonwealth's Affirmative Market Program for public contracting. Minority- and Women-Owned firms that are not currently certified but would like to be considered as an M/WBE for the purpose of this RFR should submit their application at least two weeks prior to the RFR closing date. For further information on SOMWBA certification, contact their office at 1-617-727-8692 or via the Internet at [mass.gov/somwba](http://mass.gov/somwba).

## **X. Technical Standards**

Both the bidders' clickable prototypes and the ultimate deliverables under any contract entered under this RFR must comply with the following technical standards:

- A. The Information Technology Division's Enterprise Open Standard/Open Source Policy, available online for public comment at [www.state.ma.us/itd](http://www.state.ma.us/itd).
- B. The information Technology Division's Enterprise Architecture Technical Reference Model, available online for public comment at [www.state.ma.us/itd](http://www.state.ma.us/itd).
- C. All other ITD policies, standards and guidelines available as of the date on which this RFR was published at <http://www.state.ma.us/itd/spg/publications/standards/index.htm>
- D. The Information Technology Division's Public Access Architecture, available from the Information Technology Division (ITD) Customer Coordination Group (CCG: 617-626-4600).
- E. The application must be available and accessible to Commonwealth-employed lawyers on multiple state owned networks.

## **XI. Submission of Clickable Prototype**

The prototypes of all bidding vendors will be reviewed by the PMT. All bidders must make available to the PMT a clickable prototype of the VLO built according to the technical specifications set forth in Section X and including the features set forth in Attachment I hereto. Each bidder's response must contain all information specified in Attachment I hereto that the PMT must have in order to obtain FTP access to the bidder's prototype. The PMT will evaluate all clickable prototypes submitted. All or part of the clickable prototype of the winning bidder would become a deliverable under the contract ultimately entered by the winning bidder. Provision of a clickable prototype is a requirement before the PMT will proceed with considering the Bidder's Response.

The bidder must agree that, upon execution of a contract under this RFR with the Commonwealth, to the extent to which it contains intellectual property developed





by the bidder solely for the purpose of responding to this RFR, the bidder's clickable prototype becomes the property of the Commonwealth:

## **XII. Proposal Review**

Following review of the clickable prototypes made available by vendors (notified by the PMT that they had passed the document review phase of the procurement), references, and vendor responses to this RFR, the PMT will evaluate the bidders whose prototypes were reviewed and choose a finalist based on criteria including but not limited to the following:

- A. Agreement with the terms of this RFR
- B. Price
- C. Adherence to the Technical Standards set forth in this RFR
- D. Timeframe for initial completion of VLO and testing
- E. References
- F. Experience
- G. Depth of vendor's team
- H. Other factors to be determined by the PMT

## **XIII. Phase I Secure VLO Features**

All bidders must describe in their responses to this RFR the manner in which they will meet the following mandatory requirements for Phase I of the Secure VLO:

### **A. Registration and Security**

A registration feature with pull-down menus enabling Commonwealth lawyers to:

1. Self register for the general security features of the prototype; and
2. Self register for access to segments of the prototype VLO.

In the case of both self-registration for the general security feature and registration, registration authentication would be performed manually by the OGLC, which would compare self-registration information with information held by the OGLC about each individual lawyer.

### **B. Directory of Agency Lawyers**

A searchable database of agency lawyers that will be populated by agency lawyers following their successful registration through the general security feature described in section XIII A above. The database, which will be populated wherever possible by the use of easy pull down menu driven forms, will include lawyers' names, locations, work addresses, phone numbers, email addresses, specialties, job titles, the agency which employs them, languages in





which they are fluent, bar memberships and years of membership in the bar, and the practice groups to which they belong.

1. Online Community. A site at which lawyers involved in particular practice groups can meet online to discuss a particular topic related to their practice area;
2. Forms Library. A searchable forms database;
3. Practice Group SubPortals. Home pages for the various practice groups that Executive Department lawyers will be joining;
4. Continuing Legal Education Resource Link Page. A Continuing Legal Education (CLE) page containing contact information, a self registration form for online registration for CLE courses, a store of materials from prior CLE courses, and a calendar for upcoming courses;
5. Legal Research Resource Link Page. A page containing links to electronic legal research tools;
6. Extranet for Outside Counsel. A page providing a secure link to the site of a legal audit firm, where agency counsel can have outside counsel bills audited. This portion of the secure VLO must be compatible with the Commonwealth's Authentica Secure Messaging Solution.
7. Outside Counsel Services Site. An outside counsel services site providing:
  - (a) a tool through which the OGLC can receive requests for outside counsel online from agencies, survey in-house counsel to see if legal needs can be met in-house, and issue certifications regarding the lack of availability of in-house counsel;
  - (b) a secure link to the online bidding features of the Commonwealth's new Comm-PASS system, currently under development and slated to come online in July of 2004; and
  - (c) a means of providing notice to outside counsel on the approved list of outside counsel of current solicitations for bids on outside counsel work; and
  - (d) a means by which outside counsel will submit their bills to a third party legal bill audit firm via the Commonwealth's Authentica secure messaging solution.
8. Navigation. For all of the foregoing features, there must be a user friendly, intentions based organization, consistent with the look and feel of the outward facing VLO site, available at [www.mass.gov/legal/](http://www.mass.gov/legal/).

All Phase I VLO features must be delivered, at a maximum, within three months of the date on which a contract is executed with the bidder under this RFR.

#### **XIV. Hosting Requirements**

The winning Bidder will be responsible for hosting the VLO during a maximum three-month development period and for six months thereafter. At a minimum, the hosting services provided by the Contractor must meet the following requirements and the bidder's response must describe how these requirements will be met:

- A. Sufficient network bandwidth



- B. Website and VLO application monitoring
- C. Services available 24 x 7 x 365, with 99.9% uptime. Credits must be provided for downtime.
- D. Data and application backup
- E. Response time less than 5 seconds
- F. Maintenance, support and management of application
- G. Security of application and data. Must include at a minimum:
  - 1. Firewalls
  - 2. Access restrictions and restriction on alteration of content
  - 3. Backup copies of site and contents
  - 4. Protection from network attacks and other harmful code
- H. Protection of proprietary rights, specifically:
  - 1. Ownership of customer content
  - 2. Licenses demanded by bidder from ITD for content hosted by bidder
  - 3. Licenses from bidder to ITD for use of bidder hosting materials
  - 4. Licenses from bidder to ITD for software
  - 5. Ownership of URL designation

## **XV. Warranties**

Bidder must agree to the following warranties:

- A. It will perform services in a workmanlike manner and with the highest professional diligence and skill;
- B. Services and goods will conform substantially to the terms of this RFR, the bidder's response hereto and any statement of work entered by the bidder with ITD under this RFR;
- C. Hosting materials provided by the bidder (including data, hardware and software) will not violate any law or regulation or any proprietary or intellectual property right of any third party; and
- D. The media on which any software is provided will be free of defects and viruses, and the code delivered to ITD will be free of Trojan Horses, backdoors, and disabling, malicious and destructive code of any kind.





## **ATTACHMENT 1 PROTOTYPE SPECIFICATIONS**

Each clickable prototype shall have the following features and meet the following technical criteria.

### **I. General Features of Prototype:**

#### **A. User Registration and Security**

A registration feature with pull-down menus enabling lawyers to:

1. Self register for the general security features of the prototype and
2. Self-register for access to segments of the prototype secure VLO.

Registration would be performed manually by the Office of the Governor's Chief Legal Counsel (GLC), which would compare self-registration information with information held by GLC about each individual lawyer.

The prototype must provide all in-house Executive Department lawyers secure access to the secure VLO, and also authorize users to use certain secure specific features of the VLO.

#### **B. Attorney Database**

An interactive, easily searchable database of agency lawyers that will be populated by agency lawyers following their successful registration through the general security feature described in section IA above. The database, which will be populated wherever possible by the use of easy pull down menus, will include lawyers' names, locations, work addresses, phone numbers, email addresses, specialties, job titles, the government organization which employs them, languages in which they are fluent, bar memberships and years of membership in the bar, and the practice groups to which they belong. The database will be used by lawyer managers to determine how lawyers are distributed across agencies and what their specific skills are, and by lawyers to provide peer resources for legal issues outside their area of expertise.

#### **C. Hosting and ftp access**

Vendor must host the prototype as described in this attachment on vendor's web server for inspection. Vendor must provide FTP access to procuring department by providing site name, username and password, and any special ftp settings to the PMT in its response to this RFR. Poor web server performance or non-compliant functionality will disqualify vendor for progression to future phases of bidding.





## II. Specific Features of Prototype

- A. Primary Interface Design.** In addition to the technical requirements set forth in section X of this RFR, the Prototype must use the following files available for download for index.html and as a design model:

<http://www.mass.gov/legal/vlodemo/index.html>

<http://www.mass.gov/legal/vlodemo/vlo.css>

[http://www.mass.gov/legal/vlodemo/massgov\\_logo.jpg](http://www.mass.gov/legal/vlodemo/massgov_logo.jpg)

<http://www.mass.gov/legal/vlodemo/blank.gif>

### B. Menu System

Create a context-sensitive navigational menu containing the following elements for use on the supplied index.html and subsequent pages:

0	HOME	[link to index.html]
0	First time users	[no link]
1	Register now	[link to request for site access]
0	Attorney listing	[no link]
1	Search	[link to profile search form]
1	Add profile	[link to profile submission form]
0	VLO Tools	[no link]
1	Conference	[no link; future capability]
1	Model forms	[link to documents]
1	OC request	[link to web form]
0	Admin only	[no link]
1	Edit DB	[link to database administration]
1	New DB user	[link to database security for new user authorization]
1	Security	[link to site security functions]

### C. Data Structures

The bidder prototype for the VLO demonstration application will involve one data set, the attorney profile.

#### Attorney Profile Data Set

There are 23 fields for the *attorney* data set:

0	Last name
1	First name
2	Middle initial
3	Degree (if not JD)
4	Education (institution, year degree granted)
5	Title
6	Department
7	Subcategory
8	Agency
9	Practice Area
10	Practice Groups



11	Bars of which attorney is a member, and years of bar membership
12	Language1
13	Language2
14	Open field (later future use)
15	Address1
16	Address2
17	City
18	State
19	Zip
20	Email
21	Phone
22	Mobile
23	Fax
24	Website
25	Photo format (GIF or JPG)

### **Fixed Field Values**

The Agency field has the following fixed values (code|description):

- AF|Administration & Finance
- CA|Consumer Affairs & Business Regulation
- CD|Commonwealth Development
- CX|Economic Affairs
- CL|Commerce & Labor
- CT|Comptroller
- CW|Comm Status of Women
- EA|Environmental Affairs
- EC|Economic Development
- ED|Lower Education
- EU|Education
- HE|Higher Education
- EL|Elder Affairs
- ET|State Ethics Commission
- EX|Governor Executive Office
- HC|Housing & Community Development
- HH|Health & Human Services
- IG|Inspector General
- LC|Library Commission
- LW|Labor & Workforce Development
- PF|Campaign Public Finance
- PS|Public Safety
- TC|Transportation & Construction

The Client and Department fields have the following fixed values (code|description):

- GOV|EO Governor



- ANF|EO Administration & Finance
- GCX|EO Economic Affairs
- GCL|EO Commerce & Labor
- GCD|EO Commonwealth Development
- ELD|EO Elder Affairs
- ELX|EO Constituent Affairs
- GED|EO Education
- ENV|EO Environmental Affairs
- EHS|EO Health & Human Services
- EPS|EO Public Safety
- TRP|EO Transportation & Construction
- CJC/Commission on Judicial Conduct
- CPC|Committee for Public Counsel Service
- MHL|Mental Health Legal Advisors Committee
- DOC|Department of Correction
- PAR|Parole Board
- HSB|Governor's Highway Safety Bureau
- ABC|Alcoholic Beverages Control Commission
- SRC|State Racing Commission
- BBE|Board of Bar Examiners
- BCA|Board of Conciliation and Arbitration
- ATB|Appellate Tax Board
- ALA|Division of Administrative Law Appeals
- CCJ|Committee on Criminal Justice
- CHS|Criminal History Systems Board
- SOR|Sex Offender Registry Board
- VWA|Victim and Witness Assistance Board
- CJT|Criminal Justice Training Council
- CME|Chief Medical Examiner
- AAB|Architectural Access Board
- BBR|Board of Building Regulations
- OHA|Massachusetts Office on Disability
- MRC|Mass Rehabilitation Commission
- ADD|Mass Developmental Disabilities Council
- DAC|Disabled Persons Protection Commission
- MCB|Mass Commission for the Blind
- MCD|Comm for the Deaf & Hard of Hearing
- CAD|Mass Commission Against Discrimination
- CSW|Commission on the Status of Women
- CTR|Office of the Comptroller
- IGO|Office of the Inspector General
- CPF|Office of Campaign and Political Finance
- HRD|Human Resources Division
- GIC|Group Insurance Commission





- CSC|Civil Service Commission
- LRC|Labor Relations Commission
- JLM|Joint Labor-Management Committee
- DOR|Department of Revenue
- BGT|Fiscal Affairs Division
- EFB|Emergency Finance Board
- DCP|Capital Asset Management and Maintenance
- BSB|Bureau of State Office Buildings
- ITD|Information Technology Division
- BLC|Board of Library Commissioners
- LIB|George Fingold Library
- ART|Massachusetts Cultural Council
- OSD|Operational Services Division
- DOE|Department of Education
- RGT|Board of Higher Education
- EQA|Educational Quality and Accountability
- SEA|Dept of Economic Development
- DES|Division of Employment & Training
- EOL|Dept of Labor & Workforce Development
- DIA|Division of Industrial Accidents
- AGR|Department of Food and Agriculture
- DEM|Department of Environmental Management
- EQE|Department of Environmental Protection
- FWE|Fisheries Wildlife & Envir Law Enforce
- MDC|Metropolitan District Commission
- RMV|Registry of Motor Vehicles
- DPW|Department of Highways
- MAC|Massachusetts Aeronautics Commission
- DOB|Division of Banks
- DOI|Division of Insurance
- MRB|Merit Rating Board
- DOS|Division of Standards
- DPU|Telecommunications and Energy
- ENE|Division of Energy Resources
- REG|Division of Professional Licensure
- MED|Board of Registration in Medicine
- SCA|Consumer Affairs & Business Regulation
- SRB|State Reclamation Board
- LOT|State Lottery Commission
- OCD|Dept of Housing & Community Development
- ORI|Office for Refugees and Immigrants
- OFC|Office of Child Care Services
- PER|Public Empl Retirement Admin Commission
- TRB|Teachers Retirement Board



- VET|Department of Veterans' Services
- CHE|Soldiers' Home Chelsea
- HLY|Soldiers' Home Holyoke
- HCF|Div of Health Care Finance and Policy
- DMA|Division of Medical Assistance
- DMH|Department of Mental Health
- DMR|Department of Mental Retardation
- DPH|Department of Public Health
- DSS|Department of Social Services
- DYS|Department of Youth Services
- WEL|Department of Transitional Assistance

The Subcategory field has the following fixed values (code|title|HTML description):

- 100|Contracts and Procurement|
- 101|State Procurement|Contracts and Procurement<br>(State Procurement)
- 102|Grant Development|Contracts and Procurement<br>(Grant Development)
- 103|Construction Contracts|Contracts and Procurement<br>(Construction Contracts)
- 104|Bid Laws|Contracts and Procurement<br>(Bid Laws)
- 105|All or other|Contracts and Procurement<br>(All areas or other)
- 200|Legislative Drafting, Regulatory
- 201|Legislative Drafting|Legislative Drafting
- 202|Regulatory Drafting|Regulatory Drafting
- 203|All or other|Legislative, Regulatory<br>(All areas or other)
- 300|Labor and Employment Law
- 301|Discrimination|Labor and Employment Law<br>(Discrimination)
- 302|Human Resources|Labor and Employment Law<br>(Human Resources)
- 303|All or other|Labor and Employment Law<br>(All areas or other)
- 400|Real Estate and Conveyancing
- 401|Zoning and Land Use|Real Estate and Conveyancing<br>(Zoning and Land Use)
- 402|Conveyancing and Leases|Real Estate and Conveyancing<br>(Conveyancing and Leases)
- 403|Landlord-Tenant Law|Real Estate and Conveyancing<br>(Landlord-Tenant Law)
- 404|All or other|Real Estate and Conveyancing<br>(All areas or other)
- 500|Construction and Infrastructure|
- 501|Contracts|Construction and Infrastructure<br>(Contracts)
- 502|Bid Laws|Construction and Infrastructure<br>(Bid Laws)
- 503|Litigation|Construction and Infrastructure<br>(Litigation)





- 504|All or other|Construction and Infrastructure<br>(All areas or other)
- 600|Litigation|
- 601|Tort Defense|Litigation<br>(Tort Defense)
- 602|Civil Rights|Litigation<br>(Civil Rights)
- 603|Environmental|Litigation<br>(Environmental)
- 604|Child Services|Litigation<br>(Child Services)
- 605|Tax Compliance|Litigation<br>(Tax Compliance)
- 606|General Civil Defense|Litigation<br>(General Civil Defense)
- 607|General Criminal Defense|Litigation<br>(General Criminal Defense)
- 608|Arbitration/Mediation|Litigation<br>(Arbitration/Mediation)
- 609|All or other|Litigation<br>(All areas or other)
- 700|Family Law|
- 701|All|Family Law
- 800|Technology Law|
- 801|All|Technology Law
- 900|Education|
- 901|Higher Education|Education<br>(Higher Education)
- 902|Primary Education|Education<br>(Primary Education)
- 903|Charter Schools|Education<br>(Charter Schools)
- 904|All or other|Education<br>(All areas or other)
- 1000|Health Care|
- 1001|Federal Benefits|Health Care<br>(Federal Benefits)
- 1002|State Benefits|Health Care<br>(State Benefits)
- 1003|Veterans Law|Health Care<br>(Veterans Law)
- 1004|Disability Law|Health Care<br>(Disability Law)
- 1005|All or other|Health Care<br>(All areas or other)
- 1100|Administrative Law|
- 1101|Public Records|Administrative Law<br>(Public Records)
- 1102|Hearing Officers|Administrative Law<br>(Hearing Officers)
- 1103|State Finance Law|Administrative Law<br>(State Finance Law)
- 1104|Legal Office Management|Administrative Law<br>(Legal Office Management)
- 1105|All or other|Administrative Law<br>(All areas or other)
- 1200|Environmental Law|
- 1201|Litigation, Enforcement|Environmental Law<br>(Litigation, Enforcement)
- 1202|Permitting, Review|Environmental Law<br>(Permitting, Review)
- 1203|All or other|Environmental Law<br>(All areas or other)

#### D. Date Formatting

The StartDate and EndDate fields must be formatted as mm/dd/yyyy. Date capture should be calendar assisted to insure data quality as part of form entry.





Start date	10/31/2003	
End date		

Calendar icon, or similar interface, should popup a dynamic calendar that enables the user to select specific dates and then formats date in correct manner as an alternative to typing the dates in.

### E. Other Text Fields

All other fields are text; consistent data conventions for names and numbers should be followed (format can be specified by vendor as part of application data verification).

### F. Database Functionality

The attorney database involves one data set, the *attorneys' database*. The VLO's functionality should include:

1. Appropriate forms and processes permitting lawyers that have already been registered to populate the respective data set in the database, including edit/delete functionality where appropriate
2. Flexible search capability, including by keyword text and all relevant fixed value fields, for the data sets, and linked reports (for example, cases for a selected attorney)
3. Appropriate security functionality to register users and grant access to the attorney data set.
4. Data Entry Forms. Attorney (*attorneys*) profile data entry should populate all fields (except field 12 that is open for future use) in a convenient one-screen form.
5. The "NEXT" button should initiate a search of the *attorneys'* database and list all matches.
6. Flexible Search. Attorney search (*attorneys*) should include keyword, Department, Agency, and Subcategory (practice area) reports in an appropriate single form with pre-populated dropdown lists for all fixed value fields. Search results should include:
  - Attorney first last name
  - Title, department, agency [only codes displayed]
  - Phone and email contact information

Link on *last name* should generate a linked report to the profile detail of the attorney. Link on email address should generate mailto form. Link on either department or agency should generate a popup box definition of the code value.



### G. Security

The VLO will be accessed only via <http://mass.gov>. Initial entry is open to the public and should be limited to the initial starting page and to “first time user” pages for registration. Restricted access should expand to data set population, editing and searches. Administration access should allow granting user access, and settings rights on database access.

The following minimum form is required to register to use the site:

<input type="text"/>	First name
<input type="text"/>	Last name
<input type="text"/>	Email address
<input type="text"/>	Choose a user name
<input type="text"/>	Choose a password
<input type="text"/>	Confirm password
<input type="button" value="Submit request for site access"/>	

Appropriate access request approval forms and processes must be included in the VLO application. The Governor’s Legal Office will manually authenticate users who have provided the foregoing registration information. For this demonstration application, the data should be available for secure access by only some users.





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Commonwealth of Massachusetts  
Executive Office of Administration And Finance

Information Technology Division and  
Operational Services Division

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One Ashburton Place  
Boston, Massachusetts 02108-1552

# **Request for Response (RFR) # Virtual Law Office (VLO) - Phase I**

## **Amendment 1**

**December 5, 2003**

### **Commonwealth Contact Information:**

Bill McAvoy, General Counsel  
Operational Services Division  
C/O Michelle Burwell  
Information Technology Division  
One Ashburton Place, Room 801  
Boston, Massachusetts 02108  
Telephone: (617) 626-4527  
E-mail: [michelle.burwell@state.ma.us](mailto:michelle.burwell@state.ma.us)





## VIII. Procurement Calendar

The schedule of events/activities in the original RFR, dated December 2, 2003, is hereby **deleted** and **replaced** by the following:

<b>Activity/Deadline:</b>	<b>Deadline Date/Time:</b>
<b>RFR posted on Comm-PASS:</b>	<b>Monday, December 2, 2003</b>
<b>Bidders' Written Questions Forwarded to Information Technology Division via email to <u>michelle.burwell@state.ma.us</u>:</b>	<b>Deadline: Friday, December 12, 2003 at 5:00 P.M.</b>
<b>PMT's responses to Bidders' questions posted online:</b>	<b>Friday, December 19, 2003</b>
<b>Mandatory Documents must be submitted to ITD and vendor prototypes must be posted online for ITD access:</b>	<b>Deadline: Friday, January 9, 2004 at 3:00 P.M.</b>
<b>Anticipated Procurement Management Team Notification of Final Bidder Selection:</b>	<b>Friday, January 23, 2004 (Estimated)</b>

Please note that all times that are listed above are Eastern Standard Time.





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Commonwealth of Massachusetts  
Executive Office of Administration And Finance

Information Technology Division and  
Operational Services Division

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One Ashburton Place  
Boston, Massachusetts 02108-1552

# **Request for Response (RFR) # Virtual Law Office (VLO) - Phase I**

## **Amendment 2**

**December 24, 2003**

### **Commonwealth Contact Information:**

Bill McAvoy, General Counsel  
Operational Services Division  
C/O Michelle Burwell  
Information Technology Division  
One Ashburton Place, Room 801  
Boston, Massachusetts 02108  
Telephone: (617) 626-4527  
E-mail: [michelle.burwell@state.ma.us](mailto:michelle.burwell@state.ma.us)



## I. Overview of Procurement

The second paragraph **only** of Section I. **Overview of Procurement** on page 3 in the original RFR, dated December 2, 2003, is hereby **deleted and replaced** by the following (See highlighted amendments):

This RFR pertains to Phase I of the VLO project, which will focus on developing, hosting and testing a portal associated with a secure VLO, including: (1) a multilevel security system securing both access to the in-ward facing secure website available only to Commonwealth lawyers and access to particular segments of the secure website itself; (2) a database of Commonwealth Executive Department agency lawyer names, contact information, agency affiliations, and skills, and practice group affiliations themselves; (3) a site at which lawyers involved in particular practice groups can meet online to discuss a particular topic related to their practice; (4) a forms database; (5) home pages for each of the various practice groups that Executive Department lawyers will be joining; (6) a continuing legal education (CLE) page containing contact information, a self registration form for online registration for CLE courses, a store of materials from prior CLE courses, and a calendar for upcoming courses; (7) a page containing electronic legal research tools; (8) a page providing a secure link to the site of a legal audit firm, where agency counsel can have outside counsel bills audited; (9) an outside counsel site providing: (a) a tool through which the OGLC can receive requests for outside counsel online from agencies, survey in-house counsel to see if legal needs can be met in-house, and issue certifications regarding the lack of availability of in-house counsel; (b) a secure link to the online bidding features of the Commonwealth's new Comm-PASS system, currently under development and slated to come online in July of 2004; and (c) a link for outside counsel on the approved list of outside counsel to access the current solicitations for bids on outside counsel work on the Commonwealth's new Comm-PASS system; and (d) a means by which outside counsel will submit their bills to a third party legal bill audit firm via the Commonwealth's Authentica secure messaging solution; and (10) a link to an electronic billing utility through which agencies will be able to accept bills online from outside counsel.

Please note that the first and third paragraphs in this section will remain unchanged. Also, please note that the only changes that were made to this paragraph above are: (1) the subsections were renumbered to correct a mistake in the numbering; and (2) the new subsection (9) was amended to be consistent with Subsection 7. Outside Counsel Services Site under Section XIII. **Phase I Secure VLO Features**, Subsection B. Directory of Agency Lawyers on page 17 of the RFR.







## VIII. Procurement Calendar

The schedule of events/activities in the original RFR, dated December 2, 2003, and in Amendment 1, dated December 5, 2003, is hereby **deleted** and **replaced** by the following (see highlighted amendments):

Activity/Deadline:	Deadline Date/Time:
RFR posted on Comm-PASS:	Monday, December 2, 2003
Bidders' Written Questions Forwarded to Information Technology Division via email to <a href="mailto:michelle.burwell@state.ma.us">michelle.burwell@state.ma.us</a> :	Deadline: Friday, December 12, 2003 at 5:00 P.M.
PMT's responses to Bidders' questions posted online:	Wednesday, December 24, 2003
Mandatory Documents must be submitted to ITD and vendor prototypes must be posted online for ITD access:	Deadline: Wednesday, January 14, 2004 at 3:00 P.M.
Anticipated Procurement Management Team Notification of Final Bidder Selection:	Monday, January 26, 2004 (Estimated)

Please note that all times that are listed above are Eastern Standard Time.

## XIII. Phase I Secure VLO Features

Subsection 7. Outside Counsel Services Site under Section XIII. **Phase I Secure VLO Features**, Subsection B. Directory of Agency Lawyers on page 17 of the original RFR, dated December 2, 2003, is hereby **deleted** and **replaced** by the following (Original Subsection 7 has been amended where highlighted below):

7. Outside Counsel Services Site. An outside counsel services site providing: (a) a tool through which the OGLC can receive requests for outside counsel online from agencies, survey in-house counsel to see if legal needs can be met in-house, and issue certifications regarding the lack of availability of in-house counsel; (b) a secure link to the online bidding features of the Commonwealth's new Comm-PASS system, currently under development and slated to come online in July of 2004; and (c) a link for outside counsel on the approved list of outside counsel to access the current solicitations for bids on outside counsel work on the Commonwealth's new Comm-PASS system; and (d) a means by which outside counsel will submit their bills to a third party legal bill audit firm via the Commonwealth's Authentica secure messaging solution.



APPENDIX E: DRAFT LEGAL SERVICES RFR





Commonwealth of Massachusetts  
Executive Office For Administration And Finance

Operational Services Division  
on behalf of  
The Office of the Governor's Legal Counsel

One Ashburton Place, Room 1017  
Boston, Massachusetts 02108-1552

**DRAFT**

## **Request for Response (RFR)**

# **#ST4H09\_/PRF\_ Statewide Contract For Legal Services**

### **Commonwealth Contact Information**

Bill McAvoy

General Counsel

Operational Services Division

Fax: (617) 727-4527

Telephone: (617) 720-3327

E-mail: [william.mcavoy@osd.state.ma.us](mailto:william.mcavoy@osd.state.ma.us)

Note: Deadlines for this RFR can be found in Section 9.





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**SECTION 1. OVERVIEW AND DESCRIPTION OF PROCUREMENT:**

On behalf of the Commonwealth of Massachusetts Office of the Governor's Legal Counsel ("OGLC"), the Commonwealth's Operational Services Division ("OSD") hereby issues this Request for Responses ("RFR") for Outside Legal Services to be provided for Executive Departments and other Eligible Entities of the Commonwealth ("Commonwealth"), as approved by the OGLC.

The goal of this procurement is to provide a wide-ranging list of contracted lawyers and law firms ("Contractors") to provide legal services as specified in this RFR. Under any statewide contract (SWC) resulting from this RFR:

- Specific legal practice areas will be identified;
- Contractors will be designated to those legal practice areas where they are qualified and interested in providing services for the Commonwealth;
- Competitive hourly rate bidding procedures will be utilized to secure hourly rates on a project by project basis;
- Legal billing guidelines will be followed by each Contractor that is engaged by the Commonwealth to provide services on behalf of an engaging Commonwealth entity; and
- Performance measurements will be followed.

The Legal Services, which are being sought under this RFR, are listed in Table 1 below. Please note that the Procurement Management Team (PMT) for this RFR may open up this RFR in the future to solicit other additional legal service areas.

<b>Table 1 - Legal Services being sought under this RFR:</b>
Environmental and Land Use
Intellectual Property
Real Estate / Conveyancing / Leasing
Litigation
Education
Information Technology
Transportation
Construction and Infrastructure Development
Financial / Investment / Bond Legal Services
Labor and Employment Law
Family Law
Health Care, Human and Social Services Law
Others (To be solicited as needed)

The Commonwealth of Massachusetts seeks independent contractors, as defined in Section 7, PART B, to provide legal services for Eligible Entities of the Commonwealth of Massachusetts. Independent contractors may be law firms or individual attorneys. Additional detail regarding the potential of any resulting contract or engagement of services is contained in Sections 7, PARTS A {Detailed Scope of Service} and B {Definitions}. Section 7, PART A gives a more detailed explanation of this RFR, the services and performance required under any resulting contract and the methods which will be utilized to engage the services of contractors for specific legal service needs of Commonwealth Eligible Entities.

**SECTION 2. ACQUISITION METHODS TO BE USED FOR CONTRACT(S):**

Fee For Service and/or Contingency-based Fee, to be negotiated by the Eligible Entity that is engaging a Contractor from the list of Independent Contractors resulting from this RFR. Please note that Executive Departments must utilize the Contractor Engagement Process, including securing prior approval from the OGLC to engage the services of an outside legal contractor pursuant to MGL c. 30, § 65, preparing a Scope of Services for the specific engagement and conducting a competitive bidding event, which is described in Section 7, Part A, amongst Contractors in the specific legal service area that the Department is seeking to contract with.

**SECTION 3. SINGLE OR MULTIPLE CONTRACTORS FOR CONTRACT PERFORMANCE:**





Multiple Contractors may be law firms and individual attorneys

#### **SECTION 4. SINGLE OR MULTIPLE DEPARTMENTS MAY CONTRACT UNDER THIS RFR:**

**Statewide Contract (SWC)--** All Executive Departments and Eligible Entities, deemed eligible by the Governor's Chief Legal Counsel, as defined in Section 7, Part B may purchase under terms of the SWC resulting from this RFR. In addition, all Executive Departments must follow the Contractor Engagement Process described in Section 7, Part A.

#### **SECTION 5. TOTAL ANTICIPATED DURATION OF CONTRACT(S):**

**Initial Contract Duration:** will be three (3) years.

**Options to Renew:** Two (2) Option(s) to Renew not to exceed: Two (2) Year(s), each option.

Contract duration terms are terminable consistent with the Commonwealth's Terms and Conditions.

Please note that Eligible Entities may engage the services of a Contractor under this SWC for an engagement period that may extend beyond the duration period of the SWC in order to carryout the services necessary to bring any cases / matters to full closure.

#### **SECTION 6. TOTAL ANTICIPATED EXPENDITURES FOR TOTAL ANTICIPATED DURATION OF CONTRACT(S):**

**Amounts indicated are only estimates.**

Contract anticipated expenditure amounts are extrapolated from retrospective financial reports on past amounts expended on these services. Amounts actually expended during the period of any SWC resulting from this RFR are based upon numerous variables, including the competitive negotiation process for services to be performed, the types of services requested of the Contractor, and the appropriation or availability of funds.

**Estimated Value of Procurement per Year.**

Up to \$\_\_\_,000,000.00 per year, based on the Commonwealth's spending history for outside legal services. Please note that the only Departments that are required to use this SWC are Executive Departments. Also note that the spending of Executive Departments represents only part of this estimated value. The other Commonwealth Agencies / Departments / Entities (i.e. non-Executive Departments) that represent the remainder of this estimated value are allowed and, in fact, encouraged to use this SWC. In addition, this SWC is also open for other Eligible Entities, such as cities and towns and certain Commonwealth authorities, to use. These other Eligible Entities are not included in this estimated value of the procurement.

Any SWC resulting from this RFR will NOT have a Maximum Obligation Amount.

#### **SECTION 7. CONTRACT AND PERFORMANCE SPECIFICATIONS:**

##### **SECTION 7, PART A—DETAILED SCOPE OF SERVICE OF THIS RFR**

The Commonwealth of Massachusetts, through a Procurement Management Team (PMT), seeks independent contractors to become qualified under this RFR to provide Legal Services to Eligible Entities as defined in this RFR. Independent contractors may be Law Firms or individual attorneys. More detailed definitions of services to be used under this contract are contained in Section 7, PART B.

The scope of services listed in this Section 7, PART A is intended only to serve as an example of the type of services that could be requested and are not intended to be a complete listing. Because this is a solution-based procurement, the type of services and scope of work will be generated on a case by case basis.

The goal of this procurement is to provide a comprehensive list of reviewed, qualified independent contractors to provide legal services. These services may include, but are not limited to, the fields of legal specialization listed in Table 1.





## Request For Response (RFR) #ST4H09\_/PRF\_\_ for Legal Services

- During the life of any SWC resulting from this RFR, all contractors will be required to comply with Performance Measurements as created by the Procurement Management Team. This is to ensure that the Commonwealth of Massachusetts continues to receive "best value" and to ascertain that contractors know what is expected of them.

Contractors will be required to keep current all Contractor Information, including:

1. Contract Manager information. The contract manager, as identified in the Response, shall be responsible for overall management, responses to requests for quotes by Commonwealth entities looking to engage a contractor under this SWC, reports and ensuring adherence by the contractor to the bidding, billing and performance measurements of this SWC;
2. E-mail addresses for:
  - a) Contract Manager; and
  - b) Online bidding events, pursuant to the Legal Bid Line Guidelines, which require maintaining two (2) pseudonym email addresses for online competitive bidding events.
3. Law Firm/Individual Attorney mailing address, payment and taxpayer identification (W-9) tax information.

For the duration of the contract and its extensions with the Commonwealth, notification of changes to Contractor Information as described above must be done in writing through the Procurement Team Leader or his designee. Failure to keep this information current may result in suspension from any SWC resulting from this RFR.

**Prompt reporting of any merger or other restructuring arrangements is required** both for the purpose of reassessing the qualification status of the changed entity and in order to ensure adherence with Commonwealth requirements for this contract. **Contractors cannot assume that their contract will automatically be transferred to restructured entities and are urged to discuss proposed restructuring arrangements with the Procurement Team Leader (PTL) prior to implementation.**

The PMT will require that any changes to the above information be filed with the PTL, or such designee as may be identified by the PTL, in writing within 30 business days of the change. Contractors not fulfilling their obligations under this requirement will be brought before the PMT for further review as being non-compliant.

Evaluation and Selection of Contractors will be conducted by the PMT for this contract. All complete responses submitted by Respondents by the submittal deadline under this Request for Responses (RFR) will be evaluated. Multiple Respondents will be selected based upon fulfillment of the qualifications listed in the RFR, completion of all Required Attachments as listed in this RFR, and a determination by the PMT that contracting with the Respondent will provide "best value" to the Commonwealth and provide adequate coverage for all identified legal practice areas throughout the Commonwealth, as required in the Performance Specifications included in this RFR and any resulting contract.

This RFR requires Respondents to identify their firm's/practice's legal practice area(s) that they wish their bid to be considered under as specified in **Attached Form #3 Law Firm / Individual Attorney Practice Areas**. The PMT will use this information, in addition to other pertinent information, to determine whether to award a contract to a Respondent. Eligible Entities will use this information to identify Contractors with which the Eligible Entities may want to do business and from whom they may wish to request quotes for a specific engagement.

When a Contractor wishes to be considered under a new "area of expertise", as provided for on **Attached Form #3 after the original award**, said contractor should file all pertinent information with the Procurement Team Leader in writing as will be required at the time of the determination of need of a new area of expertise. New specialty information may be posted once per calendar year and/or as deemed necessary by the PMT.

**Subcontracting policies are stringent. For all "Statements of Work" and the entire contract, the following language applies:**

- Prior approval by the Engaging Entity is required for any subcontracted services.
- Contractors are responsible for the satisfactory performance and adequate oversight of its subcontractors.
- Subcontracts will not relieve or discharge the Contractor from any duty, obligation, responsibility or liability arising under a SWC.
- The Engaging Entity is entitled to copies of all subcontracts and shall not be bound by any provisions contained in a subcontract to which it is not a party.





## **Request For Response (RFR) #ST4H09\_/PRF\_\_ for Legal Services**

- Contractors will be required to submit figures of dollar activity done with minority- or women-owned sub-contracting businesses upon request of the Operational Services Division or the Governor's Chief Legal Counsel, or any Eligible Entity with which they have conducted business.

This procurement will be considered an "open enrollment" Contract. After the initial selection process, additional qualified Respondents (including Respondents not selected during the initial selection process) may submit Responses in accordance with this open-enrollment process whenever this RFR is re-opened for Response submission during the term of the SWC. The PMT for this contract will determine when and if the RFR will be re-opened and for what categories or practice areas it will be re-opened. Re-opening may occur for any reason including ensuring coverage by attorneys with or having cases, which require unique, required or specialized qualifications. Additional Contractors may be added to the SWC upon completion of the RFR qualification processes outlined in this RFR, with any subsequent amendments, and selection by the PMT for this contract. Information regarding then current needs and the re-opening of this RFR will be posted on the same Comm-PASS site ([www.comm-pass.com](http://www.comm-pass.com)) where this RFR is posted.

### **SECTION 7, PART B--DEFINITIONS**

#### **Agency or Department.**

Any entity deemed eligible to use this contract by the Office of the Governor's Legal Counsel ("OGLC"). State Departments are identified as entities which include Executive Office, Department, Agency, Office, Division, Board, Commission or Institution within the Executive Branch, the Legislative Branch, the Judicial Branch, the Constitutional Offices, the Elected Offices, Public Institutions of Higher Education and the Military Division. The OGLC may also determine, on a case by case basis, that a city or town of the Commonwealth is eligible to utilize this contract.

#### **Bidder or Respondent**

Any law firm or individual attorney that responds to this Request for Response and all of its required provisions.

#### **Contractor**

Any Bidder/Respondent that has been awarded a Statewide Contract pursuant to this Request for Response.

#### **Eligible Entities.**

As determined by the OGLC on a case by case basis, any Statewide Contract (SWC) resulting from this RFR may be used by all agencies of the Commonwealth, including all Constitutional Offices, the Legislature, the Judiciary, Elected Offices, Public Institutions of Higher Education including the Massachusetts Higher Education Consortium, the Military Division, Independent Public Authorities and all other political subdivisions of the Commonwealth including cities, towns, municipalities, county governments, school districts, other service districts, and quasi-public agencies.

#### **Executive Department**

Any agency or department in the Executive Bureau of the Commonwealth of Massachusetts that falls under the control of the Governor.

#### **Independent Contractors.**

**Any SWC resulting from this RFR requires that any services provided shall be provided solely by independent contractors.** Independent contractors make decisions independently and do not work under the direct supervision and control of an Eligible Entity. The control of services that are procured from a SWC will rest only with the Commonwealth. If a United States Internal Revenue Services SS-8 test reveals that the performance requirements will result in hiring a contract employee, any SWC resulting from this RFR may not be used. The site <http://www.state.ma.us/osc/overview.htm> provides more detail through MMARS Memo series #159, 159A & 159B.

#### **Legal Bid Line**

The internet-based process, as determined by the Governor's Chief Legal Counsel, that will be utilized by all Executive Departments in requesting and receiving competitive bids from Contractors under this Statewide Contract for the engagement of legal services.

#### **Statewide Contract (SWC).**





## Request For Response (RFR) #ST4H09\_/PRF\_\_ for Legal Services

- All Departments and entities deemed eligible may purchase under terms of the SWC resulting from this RFR. These entities are collectively called Eligible Entities in this document.

### Sub-Agreement--"Statement of Work"

Any SWC resulting from this RFR requires that, for each contracting engagement, the Eligible Entity and the selected contractor must execute a sub-agreement known as a "Statement of Work" before any work begins. Any work done without, or counter to, the Statement of Work will be considered in violation of any contract resulting from this RFR. Documents additional to the "Statement of Work", but not counter to any SWC resulting from this RFR, may be required by an individual Eligible Entity and become part of that single Sub-Agreement. Each Statement of Work is subject to the Commonwealth of Massachusetts' Terms and Conditions and Standard Contract Form.

## SECTION 7, PART C—ENGAGEMENT OF SERVICES

Each time an eligible entity wishes to utilize the services of a Contractor on the SWC that results from this RFR, it must follow the Engagement of Services Process below:

It is a requirement of any SWC resulting from this RFR that, **prior** to any work being done or an engagement of services of any contractor under this statewide contract, each **Executive Department** must follow this **Engagement of Services Process**:

- 1) All Executive Departments must first secure the prior approval of the Office of the Governor's Legal Counsel (OGLC), pursuant to MGL c. 30, § 65 and 801 CMR 21.00, by following the **Request to Retain Outside Legal Counsel** process, which is administered by the OGLC, and by filling out and receiving approval from the OGLC on the **Request to Retain Outside Legal Counsel Form**.
- 2) All Executive Departments must secure competitive rates from at least three (3) Contractors on the SWC that meet the Department's needs via an online bidder's forum by following the **Legal Bid Line Guidelines**, as administered by the Governor's Chief Legal Counsel, unless the requirement to conduct an online bidder's forum is waived by the Governor's Chief Legal Counsel. Requests to waive the requirements of the Legal Bid Line Guidelines must be made to the Governor's Chief Legal Counsel on a case by case basis. However, if this process is waived, 3 competitive written quotes from Contractors will still be required. All other Eligible Entities that are not Executive Departments are strongly encouraged to secure written competitive quotes from contractors on this SWC.
- 3) For any litigation-related legal services being contracted by any Commonwealth agency (including Executive Departments and all other Commonwealth entities; excluding cities and towns), the contracting agency must secure prior written approval from the Office of the Attorney General pursuant to MGL c. 12, § 3 and 801 CMR 21.00.
- 4) The selected contractor and the engaging Eligible Entity **must** execute a sub-agreement before any work may begin. The requirements and suggestions for this sub-agreement, also called a "Statement of Work", are contained in Section 7, Part D of this RFR. Any work done without, or counter to, the Statement of Work will be considered in violation of any SWC resulting from this RFR.

## SECTION 7, PART D--STATEMENT OF WORK

Any SWC resulting from this RFR requires that, for each contracting engagement, the Eligible Entity and the selected Contractor must execute a sub-agreement before any work begins. This document is called a Statement of Work, and requirements and suggestions for contents are contained in this section, Section 7, Part D. Any work done without, or counter to Section 7, Part D, will be considered in violation of any contract resulting from this RFR.

1. Each Statement of Work must be signed by the Contractor Authorized Signatory, as well as a Contract Authorized Signatory of the Eligible Entity.
2. Each contractor is required to file an original of the Consultant Contractor Mandatory Submission Form (signed by the Contractor Authorized Signatory) **with each Eligible Entity** as part of the contractor's Statement of Work for **each** individual project. This document must be filed with the Statement of Work in the Eligible Entity's procurement files.
3. Contractors **may** be required by an Eligible Entity to present a current original or photocopy of their Massachusetts Department of Revenue "Certificate of Good Standing" or "Letter of Compliance" for





## **Request For Response (RFR) #ST4H09\_/PRF\_\_ for Legal Services**

each individual Statement of Work. If required, the contractor **must** present the requested document before the Statement of Work is signed by the Eligible Entity's authorized signatory.

4. Each Contractor must file a printout from the Board of Bar Overseers (BBO) web site, demonstrating that each attorney, who will provide services under this contract engagement, is a member in good standing of the Massachusetts Bar. The BBO's Attorney Lookup web page, where Contractor's can get a printout of each Massachusetts attorney's status, can be found at:  
<http://db.state.ma.us/obcbbo/bboreg/lookup.asp>

The Eligible Entity must approve any changes or additions in sub-contractors or charges in the amounts or rates of the cost reimbursement to any sub-contractor. The portion of the Statement Of Work that addresses sub-contracting, sub-contractors, their work and fees must include a clear description of the work to be performed, capabilities of the sub-contractor to perform such work, breakdown of cost and person hours, method of payment and maximum amount to be paid. The Eligible Entity may require work be paid in increments, as specified deliverables are completed. The Eligible Entity may require additional business references, as deemed appropriate by that Eligible Entity.

### **SECTION 7, PART E--MANDATORY REQUIREMENTS FOR ALL RFRS AND CONTRACTS WITH THE COMMONWEALTH OF MASSACHUSETTS**

All of the following items **must be included** in the Response as instructed; if not included the response may be deemed unresponsive. The forms are located at:

<http://www.comm-pass.com/comm-pass/forms.asp>. Instructions for completion are below, with additional instructions on the forms.

**All forms listed in SECTION 7, PARTS E AND F must be signed by one individual.**

This individual must be the same individual whose signature is correctly submitted on the Contractor Authorized Signature Verification Form.

1. **Contractor Authorized Signature Verification Form -**  
(<http://www.mass.gov/portal/index.jsp?pageID=agutility&agid=osd&agu=forms>). This individual must be the/a Contractor Authorized Signatory for the Law Firm or the individual attorney for sole practitioner.
2. **Commonwealth of Massachusetts Terms and Conditions -**  
([http://www.mass.gov/agency/documents/osd/contractforms/c\\_tc.doc](http://www.mass.gov/agency/documents/osd/contractforms/c_tc.doc)). Please note that the terms of the Commonwealth's Terms and Conditions are **not negotiable and cannot be amended**.
3. **W-9 Form** (Request for Taxpayer Identification Number and Certification, also referred to as Massachusetts Substitute W-9 Format) –  
(<http://www.mass.gov/agency/documents/osd/contractforms/w-9.doc>)
4. **Commonwealth of Massachusetts Standard Contract Form and Instructions –**  
(<http://www.state.ma.us/osc/Accountg/marmemos/scf2001.doc>)
5. **Affirmative Action Plan or Form** (required from ALL Respondents to this RFR) –  
(<http://www.mass.gov/agency/documents/osd/otherforms/aaplan.doc>)
6. **Northern Ireland Notice and Certification** (required from ALL Respondents to this RFR) –  
(<http://www.mass.gov/agency/documents/osd/otherforms/nirel.doc>)

### **SECTION 7, PART F--MANDATORY REQUIREMENTS FOR THIS RFR AND ANY RESULTING STATEWIDE CONTRACT (SWC) WITH THE COMMONWEALTH OF MASSACHUSETTS**

#### **Effective Duration of Responses.**

Responses must remain in effect for at least 120 days from the submission deadline and thereafter until either the Respondent withdraws the response in writing, a Contract is executed, or the procurement is cancelled, whichever occurs first.

In order to be considered for a contract under this RFR, all of the following items must be included in the Response by the deadline in Section 9 and as instructed; if not included, the response may be deemed unresponsive. Instructions for completion of each item below are included in this section (SECTION 7, PART F), in each ATTACHMENT included in this document, or on Comm-PASS at: <http://www.comm-pass.com/comm-pass/forms.asp>.





## **Request For Response (RFR) #ST4H09\_/PRF\_\_ for Legal Services**

Law Firm / Individual Attorney Resumes (including all resumes of all attorneys that are included in a law firm's proposed Law Team for each Legal Practice area (as defined in Table 1) that it wishes to be considered under)

1. No more than 5 pages per lawyer. Additional pages will not be evaluated.
2. Business Resume should include:
  - a) Names, business background information, and contact information of principal(s);
  - b) A description that is no longer than one (1) page per Practice Area as to why the Law Firm / Individual Attorney believes it is qualified, including a description of relevant experiences, in a competitive environment to provide services in EACH of the practice areas that it wishes to be considered under.
  - c) Practice Area licensures and certifications (if applicable).
  - d) List of all attorneys in the each Legal Practice area (as defined in Table 1) that the Law Firm wishes to be considered under.
3. BBO web site printout for each attorney that you are proposing to provide services under this contract. The BBO's Attorney Lookup web page, where Contractor's can get a printout of each Massachusetts attorney's status, can be found at: <http://db.state.ma.us/obcbbo/bboreg/lookup.asp>

### Law Firm Business and Client References (Attached Form #1).

1. Total of seven (7) references from work completed over the past three (3) years.
2. Business references should include at least three funding sources, i.e. separate customers. Failure to provide references from a minimum of three funding sources will result in the response being disqualified as unresponsive.
3. References should also include a representative sample of the practice areas that the Law Firm / Individual Attorney Practice Areas Form is bidding under in its proposal. **(Attached Form #3).**

### Email addresses.

1. Email address is required for Contact Person / Contract Manager in each Response and for each Contractor awarded as a result of this RFR. There is a field for this information in the Law Firm / Individual Attorney Practice Areas Form, (see: **Attached Form #2**).
2. Each awarded Contractor shall provide at least 2 pseudonym email addresses in order to permit anonymous participation by the Contractor in the Legal Bid Line's online bidding events.

### Law Firm / Individual Attorney Information Form (Attached Form #2).

1. This form encapsulates relevant business information for evaluation.
2. It is also the template for the Statement of Work, which is required for each project or engagement under any resulting contract. Each Eligible Entity is required to execute a Statement of Work with each contractor before any work begins.
3. Actual experience in the specific Practice Area that the bidder is proposing to provide services under.

### Law Firm / Individual Attorney Practice Areas Form (Attached Form #3).

1. This RFR requires Respondents to identify only those Legal Practice area(s) of their firm/practice for which they wish the PMT to evaluate their response. Eligible Entities will use this information to identify contractors with which they will solicit price quotes in order to engage the services of a contractor under the resulting statewide contract.
2. Respondents must fill in the required information on each row for each Legal Practice Area(s) that the Respondent wishes the PMT to evaluate and also complete the Summary Description box.
3. When new Legal Practice Areas are added to this RFR after contracts have been awarded, contractors should notify the PMT of their interest in being added to the list of contractors under those new Legal Practice Areas and should also file all pertinent information that is required to be filed at that time. This information is to be filed with the PTL, or such designee as may be identified by the PTL, in writing. New Legal Practice Areas will be added as the need for such areas arise during the life of this contract. Contractors not providing this information may not be contacted by Eligible Entities that are interested in contracting the legal services of a firm/attorney in this new area of expertise.
4. The Maximum billable rate to any Eligible Entity under any contract or engagement resulting from this RFR must be a Maximum Blended Rate Per Legal Team (or Individual Attorney for sole practitioners) Per Hour by Practice Area.
5. **The Maximum Blended Rate must include** the blended hourly rate charged for each Legal Team's work, materials including copying and printing; ALL TRAVEL considerations; communication costs; overhead rates; overtime including weekend and holidays; and any other ancillary charges. **The Blended Rate must also be consistent with the Executive Department**





## Request For Response (RFR) #ST4H09\_/PRF\_\_ for Legal Services

Legal Billing Guidelines, which can be found at <Link to Legal Billing Guidelines> and which are incorporated by reference into this RFR

6. Prompt payment discounts to be used by Respondent must be included on Attached Form #3.
7. The Respondent may attach no additional conditions.
8. Once maximum prices are set, increases will only be considered:
  - a) By request of an Eligible Entity and contractor directly to the Procurement Management Team;
  - b) During an "open enrollment" period by written request of the contractor to the Procurement Management Team; or
  - c) As a part of an amendment to the price structure of the entire contract.
9. Under the resulting SWC, Eligible Entities are encouraged to negotiate prices with contractors that are lower than the maximum price. **All Executive Departments MUST get price quotes** from at least three (3) contractors in the specific Legal Practice Area in which they are looking to contract. The required method for Executive Departments to acquire pricing from Contractors under this SWC is via an online bidder's forum (a.k.a. Reverse Auction), which will be administered by the Governor's Chief Legal Counsel consistent with the policies and procedures he has set forth in the **Executive Department Legal Bid Line Guidelines, which can be found at <Link to Legal Bid Line Guidelines> and which are incorporated by reference into this RFR.** Please note that, in addition to the rate that is determined as a result of negotiations or price quotes from the online bidder's forum, all Contractors will pay up to 1½% of each invoiced amount to a Legal Audit Contractor, as determined by the Governor's Chief Counsel, that will audit legal service invoices.
10. Eligible Entities shall have the option to pay contractors for tasks in increments, if such tasks are specified in the Statement of Work, and agreed to by the contractor.

### Legal Billing / Audit Procedures.

All Contractors resulting from this RFR will be required to submit invoices electronically to the Legal Audit Contractor, the determination of which will be made by the Governor's Chief Counsel and his designated Legal Audit Services Procurement Management Team. The Legal Audit Contractor will review all submitted invoices, determine if any corrections have to be made, submit the corrections to the invoiced Eligible Entity and the Contractor and submit management reports to the PMT regarding invoice disparities. All Contractors will then submit a payment of 1½% of each invoiced amount, as determined by the Legal Audit Contractor's statement to the Contractor, to the Legal Audit Contractor.

### Consultant Contractor Mandatory Submission Form.

1. This form is located at <http://www.mass.gov/agency/documents/osd/otherforms/constlrm.doc>
2. It must be filled out in its entirety, signed by an individual with signatory authority and filed with the bidder's response.

### Financial Requirements.

**All Respondents** to this procurement must agree to participate in the Commonwealth Electronic Funds Transfer (EFT) for receiving payments, unless the Respondent can provide compelling evidence that it would be unduly burdensome. EFT is a benefit to both contractors and the Commonwealth because it ensures fast, safe and reliable payment directly to contractors and saves both parties the cost of processing checks. Contractors are able to track and verify payments made electronically through the Comptroller's Vendor Web system. EFT applications can be found at <https://massfinance.state.ma.us/VendorWeb/eftwhatis.asp>. To learn more about EFT and Vendor Web, please visit <http://www.massfinance.state.ma.us>.

## SECTION 7, PART G--EXAMPLES OF DESIRABLE OPTIONS FOR A RESPONDENT TO OFFER, NOT LIMITED TO THOSE OUTLINED BELOW

Desirable Options should be submitted as the final segment (listed as number 15 in **Attached Form #5**) of the RFR.

### Affirmative Market Program.

Massachusetts Executive Order 390 established a policy to promote the award of state contracts in a manner that develops and strengthens Minority and Women Business Enterprises (M/WBEs). As a result, M/WBEs are strongly encouraged to submit responses to this RFR, either as prime vendors, as joint venture partners, or as subcontractors.





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Non-M/WBE Respondents are strongly encouraged to develop creative initiatives to help foster *new business relationships* with M/WBEs within the primary industries affected by this RFR. The highest number of points will be awarded for responses that clearly illustrate how the proposed business relationship(s) will result in the development and growth of M/WBEs within these primary industries. A lesser number of points will be awarded for traditional subcontracting relationships. The least number of points will be awarded for ancillary uses of M/WBEs.

In order to satisfy this section, the Respondent must submit: the names, addresses, phone numbers and contact persons of each M/WBE firm; a description of each business relationship to be established; and the actual dollar amounts, or percentages, to be awarded to each M/WBE firm. MBE and WBE firms must submit a copy of their SOMWBA certification letter for the current period. A directory of SOMWBA certified firms is available via the Internet at <http://www.mass.gov/somwba>.

A Minority Business Enterprise (MBE) or a Woman Business Enterprise (WBE) is defined as a business that has been certified as such by the State Office of Minority and Women Business Assistance (SOMWBA). Minority and women-owned firms that are not currently SOMWBA-certified but would like to be considered as an M/WBE for this RFR should apply for certification. For further information on SOMWBA certification contact the State Office of Minority and Women Business Assistance at (617) 727-8692 or via the Internet at <http://www.mass.gov/somwba>.

### Use of Environmentally Preferable Products (EPPs).

For all Respondents that submit use of Environmentally Preferable Products as part of their response, any contractors shall agree to work with the PMT to ensure that all reports and/or publications produced as a result of this contract use recycled paper that meets the state's standards for post-consumer content and double-side those documents in an effort to assist the Commonwealth in promoting source reduction.

It is also **desirable** that Contractors consider the introduction of recycled and/or EPPs into other operational areas. For example: use recycled paper for all brochures, catalogs, and/or other advertising, consider energy efficient alternatives for providing training and materials, maintain a Website that offers information to customers about the recycling opportunities available from the contractor.

## SECTION 7, PART H--EVALUATION CRITERIA FOR THIS REQUEST FOR RESPONSE

Responses will be evaluated by the PMT by utilizing the following evaluation criteria:

1. Law Firm/ Individual Attorney Resume(s).
2. Law Firm Business and Client References.
3. Quality of Response
4. Billable Rate(s) for Legal Services.
5. Desirable Options including Best Value/Value Added features.

The weights that will be assigned to each of these criteria will be determined by the PMT before the receipt of responses, sealed and then utilized by the PMT in the evaluation of each response. Please note that, in order to be evaluated, all responses must file all mandatory forms, as required in Section 7, Parts E and F.

## SECTION 7, PART I--PERFORMANCE MEASUREMENTS FOR THIS CONTRACT

Performance measurements will be conducted annually, or at a frequency subsequently modified by the Procurement Management Team. The PMT shall be obligated to notify all contractors of such subsequent changes. Contractors must comply with all terms of any contract resulting from this RFR, and should be able to provide the PMT with requested information within 10 business days, or sooner, as specified in any request. The PMT reserves the right to modify or change the Performance Measurements to give best value to the Commonwealth of Massachusetts.

Performance Measurement Templates will be sent to each contractor electronically. The Performance Measurements may encompass any aspect of written performance requirements.

Evidence, as provided by the Legal Audit Contractor, that a Contractor has overbilled the Commonwealth on numerous occasions shall also be a performance measurement that the PMT shall consider.





## **Request For Response (RFR) #S14H09 /PRF\_\_ for Legal Services**

Contractors must resolve complaints within one month of a written complaint to the PMT. Complaints not resolved can result in a Contractor being brought before the team for noncompliance of written contract requirements. Substantiated, unresolved or recurring contract complaints may affect consideration of contractors for future contracts or engagements under the contract that results from this RFR. However, the PMT may consider evidence by a Contractor supporting its resolution of any and all complaints on record. Failure to perform and/or poor performance by Contractors will be considered at any or all contract extension / renewal opportunities given under any SWC.

Contractors will be required to submit figures of dollar activity done with minority- or women-owned subcontracting businesses upon request of the PMT, or any Eligible Entity with which they have conducted business under contract or engagement resulting from this RFR.

Likewise, contractors will be required to submit figures of dollar activity done regarding Environmentally Preferable Products (EPPs) upon request of the PMT, or any Eligible Entity with which they have conducted business under contract resulting from this RFR.

Performance on any contract resulting from this RFR may affect future ability to do work under this contract or to be awarded subsequent contracts with the Commonwealth of Massachusetts or Eligible Entities.

### **SECTION 8. INSTRUCTIONS FOR SUBMISSION OF RESPONSES:**

RFR responses that are submitted without complete mandatory attachments (as specified in Section 7, Parts E and F) may be disqualified as unresponsive.

A complete checklist of the mandatory attachments specified in Section 7, Parts E and F is contained in Section 10.

All documents should be submitted in the physical order outlined in Section 10 and in **Attached Form #5**.

When an opportunity to correct or clarify is offered to a Respondent by the PMT, it will consist of one written e-mail notice. Respondents will be given a deadline to present a correct and complete response and / or clarification. **Each Respondent will get notification by e-mail of any corrections or clarifications to be made. The PMT will not respond to any inquiries from respondents after the submittal deadline date and before awards are completed.**

It is the responsibility of the Respondent to keep the e-mail address of their RFR contact person / prospective Contract Manager current and for monitoring their email inbox for communications from the PMT, including requests for clarification. Furthermore, it is not the responsibility of the PMT or the Commonwealth if a prospective bidder's e-mail address is not current, or if some technical problem, including those with the bidder's computer, network or internet service provider (ISP), causes e-mail communications sent to/from the Respondent and the PMT to be lost or spammed. Therefore, the prospective bidder must ensure that its computer, network and ISP accept e-mail from the PMT's e-mail address.

#### **Submission Requirements:**

**Submit only one (1) clearly marked original Response.** All signatures should be in **BLUE** ink by the Signatory Authority and hand-dated, also in **BLUE** ink.

**Submit one (1) electronic copy of the RFR on diskette.**

1. The diskette should be labeled with the name of the Respondent.
2. Diskette should be submitted in Microsoft Word 97, or compatible program.
3. Diskettes, which are damaged, or cannot be deciphered by current information technology systems in the Commonwealth of Massachusetts, may be deemed unresponsive.
4. Diskettes infected by a virus deemed by the PMT to be preventable may result in the Respondent's response being deemed unresponsive. Respondents should scan the diskette with the latest virus update information prior to submission to ensure the document is virus-free. If there is conflict between the documents, the paper submission shall control.

**Submit three (3) additional printed copies of the RFR for review purposes.**





## **Request For Response (RFR) #ST4H09\_/PRF\_\_ for Legal Services**

- 1) All copies should be printed double sided.
- 2) All submissions and copies should be printed on recycled paper with a minimum post-consumer content of 30 % or on paper made with tree-free fibers (i.e. paper made from raw materials other than trees, such as kenaf). All bids should note the level of recycled content contained in the paper being used.
- 3) The use of the following non-recyclable or non re-usable materials is strongly discouraged:
  - a) Three-ringed binders;
  - b) Plastic report covers;
  - c) Plastic dividers;
  - d) Vinyl sleeves;
  - e) Glued materials; and
  - f) Spiral binding.
- 4) Please use only binder clips, paper clips and staples to secure documents. Respondents should submit materials in a format that allows for easy removal and recycling of materials. Respondents are encouraged to use other products that contain recycled content in their bid documents. Such products may include folders, diskettes, envelopes, boxes, etc. Where appropriate, vendors should note which of these products are made with recycled materials.
- 5) Respondents should not submit unnecessary samples, brochures, attachments or documents.

### **SECTION 9. DEADLINES AND PROCUREMENT CALENDAR:**

**Issuance of Request for Response (RFR):** March \_\_\_\_, 2004

**ANY Written questions concerning RFR ST4H09\_/PRF\_\_ must be submitted to the RFR Contact Person in writing no later than:** \_\_\_\_, 2004 by \_\_\_\_:00 p.m.

**The Procurement Team Leader or any other member of the Procurement Management Team will not respond to telephone inquiries, e-mails, faxes or visits by Respondents or their representatives.**

Questions can be sent by regular mail, faxed, or e-mailed to Bill McAvoy, General Counsel, Operational Services Division and RFR contact person at:

<mailto:william.mcavoy@osd.state.ma.us>

**OR**

Fax: (617) 727-4527—Bill McAvoy, General Counsel

**OR**

Bill McAvoy, General Counsel

RFR ST4H09\_/PRF\_\_

Operational Services Division

One Ashburton Place, Room 1017, Boston, MA 02108-1552

- Any Respondents who intend to submit a response are prohibited from contacting any employees of the Commonwealth about this RFR, other than the RFR Contact Person.
- An exception to this rule applies to Respondents who currently do business with the Commonwealth. Such contact shall be limited to that business, and should not be related to this RFR, except as to verify references to be used in this response.
- Failure to observe this requirement will result in disqualification.

Commonwealth's obligation to respond to and post answers to written questions:

1. The PMT will review written questions received as instructed above.
2. The PMT will prepare answers to questions to clarify items in the RFR.
3. Answers to questions are posted without reference to the source of the question.
4. Answers to Respondents' questions will be made in writing and posted on Comm-PASS on or about \_\_\_\_, 2004.

A Respondent's conference is not being offered.

**Submittal Deadline Date for Responses, including all required submissions:** \_\_\_\_, 2004 at  
**Time:** \_\_\_\_:00 p.m. Eastern Standard Time





# Request For Response (RFR) #ST4H09\_/PRF\_\_ for Legal Services

All responses will be time-stamped at the time of receipt.

No responses will be accepted which are received after this date and time.

Label and Send Responses to:

Bill McAvoy, General Counsel

RFR ST4H09\_/PRF\_\_

Operational Services Division

One Ashburton Place, Room 1017, Boston, MA 02108-1552

Anticipated Contract Implementation (may be in stages as responses are reviewed):

                    , 2004

## **SECTION 10. RFR ATTACHMENTS:**

**Attached Form #5** is the coversheet for all responses.

Documents should be included in the ORIGINAL Response [and all three (3) submitted copies] in the order of presentation used in **Attached Form #5**.

1. Attached Form #5 (Cover Sheet for response)
2. Contractor Authorized Signature Verification Form
3. Commonwealth Terms and Conditions
4. W-9 (Request for Taxpayer Identification Number and Certification, also referred to as Massachusetts Substitute W-9 Format)
5. Commonwealth of Massachusetts Standard Contract Form and Instructions
6. Affirmative Action Plan or Form (required from ALL Respondents to this RFR)
7. Northern Ireland Notice and Certification (required from ALL Respondents to this RFR)
8. Law Firm / Individual Attorney Resumes (including all the resumes of all attorneys that are included in a law firm's proposed Legal Team)
9. Business References (**Attached Form #1**)
10. Law Firm / Individual Attorney Information Form (**Attached Form #2**)
11. Law Firm / Individual Attorney Practice Areas (**Attached Form #3**)
12. Consultant Contractor Mandatory Submission Form
13. Desirable Options and Added Values (outlined in detail) which the Respondent can provide to the Commonwealth of Massachusetts.

## **GENERAL RFR INFORMATION**

The terms of MGL c. 7, § 22; MGL c. 30, §§ 51, 52, 65; and 801 CMR 21.00 (Procurement of Commodities and Services) are incorporated by Reference into this RFR. Words used in this RFR shall have the meanings defined in 801 CMR 21.00. Additional definitions may also be identified in this RFR. Unless otherwise specified in this RFR, all communications, responses, and documentation must be in English, all measurements must be provided in feet, inches, and pounds and all cost proposals or figures in U.S. Currency. All Responses must be submitted in accordance with the specific terms of this RFR. No electronic Responses may be submitted in response to this RFR.

### World Trade Organization Government Procurement Agreement.

This Request for Response (RFR) to establish a Statewide Contract (SWC) for Legal Services, ST4H09\_/PRF\_\_, is subject to The World Trade Organization Government Procurement Agreement (WTO/GPA). This serves as notice of this fact.

### Alternatives.

A response which fails to meet any material term or condition of this RFR, including the submission of required attachments, may lose points or be deemed unresponsive and disqualified.

Unless otherwise specified, Respondents may submit responses proposing alternatives, which provide equivalent, better or more cost-effective performance than achievable under the stated RFR specifications. These alternatives may include related services that may be available to enhance performance during the period of the contract. The response should describe how any alternative achieves substantially equivalent or better performance to that of the RFR specifications.





## **Request For Response (RFR) #ST4H09\_/PRF\_\_ for Legal Services**

The PMT will determine if a proposed alternative method of performance achieves substantially equivalent or better performance. The goal of this RFR is to provide the best value of services to achieve the procurement goals of the Commonwealth. Respondents that propose discounts, uncharged services or other benefits in addition to the RFR specifications may receive a preference or additional points under this RFR as specified.

### Best Value Selection and Negotiation.

The PMT may select those Response(s) which demonstrate the "Best Value" overall, including proposed alternatives, that will achieve the procurement goals of The Commonwealth. The PMT and a Selected Respondent, or a Contractor, may negotiate a change in any element of Contract performance or cost identified in the original RFR or the Selected Respondent's or Contractor's Response which results in lower costs or in a more cost effective or better value than was presented in the Selected Respondent's or Contractor's original Response.

### Brand Name or Equal.

Unless otherwise specified in this RFR, any reference to a particular trademark, trade name, patent, design, type, specification, producer or supplier is not intended to restrict this RFR to any manufacturer or proprietor or to constitute an endorsement of any service, and the Eligible Entity may consider clearly identified offers of substantially equivalent services submitted in response to such reference.

### Comm-PASS.

This RFR has been distributed electronically using the Comm-PASS system. RFR Attachments that are referenced will be found either as a separate pdf file along with the RFR, or in the vendor "Forms and Information" section at: (<http://www.comm-pass.com/comm-pass/forms.asp>). Respondents are solely responsible for obtaining and completing required attachments that are identified in this RFR and for checking Comm-PASS for any addenda or modifications that are subsequently made to this RFR or attachments. The Commonwealth and its subdivisions accept no liability and will provide no accommodation to Respondents who fail to check for amended RFRs and submit inadequate or incorrect Responses. Respondents are advised to check the "last change" field on the summary page of RFRs for which they intend to submit a response to ensure that they have the most recent RFR files. Respondents may not alter (manually or electronically) the RFR language or any RFR component files. Modifications to the body of this RFR, specifications, terms and conditions, or which change the intent of this RFR are prohibited and may disqualify a Response.

### Costs.

Costs, which are not specifically identified in the Respondent's Response, if accepted by an Eligible Entity, will not be compensated under any Contract awarded pursuant to this RFR. The Commonwealth will not be responsible for any costs or expenses incurred by Respondents in responding to this RFR.

### Electronic Funds Transfer (EFT).

All Respondents to this procurement must agree to participate in the Commonwealth Electronic Funds Transfer (EFT) for receiving payments, unless the Respondent can provide compelling evidence that it would be unduly burdensome. EFT is a benefit to both contractors and the Commonwealth because it ensures fast, safe and reliable payment directly to contractors and saves both parties the cost of processing checks. Contractors are able to track and verify payments made electronically through the Comptroller's Vendor Web system. EFT applications can be found on Comm-PASS under Forms and Information. To learn more about EFT and Vendor Web, please visit <http://www.massfinance.state.ma.us>.

Successful Respondents will be required to enroll in EFT as a contract requirement by completing and submitting the *Authorization for Electronics Funds Payment Form* to OSC. If Respondent is already enrolled in the program, it must indicate this is so by checking the yes/no box in the payment method section on the Standard Contract Form.

The requirement to use EFT may be waived by the PMT on a case-by-case basis if participation in the program would be unduly burdensome on the Respondent. If a Respondent is claiming that this requirement is a hardship or unduly burdensome, the specific reason must be documented in its response. The PMT will consider such requests on a case by case basis and communicate the findings with the Respondent.

### Emergency Standby Services.

In a declaration of a state of emergency where the safety and well being of Commonwealth citizens are at risk, the Commonwealth of Massachusetts may request specific services from its Contractors. Contractors may be called upon to supply and/or deliver to the Commonwealth on a priority basis such services currently under contract.





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Such accommodations may be requested from a Contractor during an actual emergency. To accommodate such request, Contractors may be requested and must make every effort to service these requests to the best of their ability from regular sources of supply at the rates set forth in any standard contract resulting from this RFR.

### Estimated Provisions.

The Commonwealth makes no guarantee that any services will be purchased from any contract resulting from this RFR. Any estimates or past procurement volumes referenced in this RFR are included only for the convenience of Respondents; and are not to be relied upon as any indication of future purchase levels.

### Northern Ireland Notice and Certification.

All Respondents must complete the Northern Ireland Notice and Certification form to satisfy MGL c7, § 22C.

### Prompt Payment Discounts.

Respondents **must** offer discounts in exchange for an expedited payment. Payments may be issued earlier than the general goal of within 30 days of receipt of the invoice only when in exchange for discounted prices. Payment periods listed in a Contract of less than forty-five (45) days from the date of receipt of an invoice shall be effective only to enable an Eligible Entity to take advantage of early payment incentives and shall not subject any payment made within the forty-five (45) day period to an extra charge.

### Public Records.

All responses and information submitted in response to this RFR are subject to the Massachusetts Public Records Law, MGL c66, §10, and to MGL c 4, §7.26. Any statements in submitted responses that are inconsistent with these statutes shall be disregarded.

### Reasonable Accommodation.

Respondents with disabilities or hardships that seek reasonable accommodation, which may include the receipt of RFR information in an alternative format, must communicate such requests in writing to the Contact Person. Requests for accommodation will be addressed on a case by case basis. A Respondent requesting accommodation must submit a written statement, which describes the Respondent's disability and the requested accommodation to the Contact Person for the RFR.

### Respondent Communication.

Respondents are prohibited from communicating directly with any employee of the Commonwealth of Massachusetts except as specified in this RFR, and no other individual Commonwealth employee or representative is authorized to provide any information or respond to any question or inquiry concerning this RFR. Respondents may contact the Procurement Team Leader if the RFR is incomplete or the Respondent is having trouble obtaining any required attachments electronically through Comm-PASS.

### Subcontracting Policies.

Prior approval by an Eligible Entity is required for any subcontracted service that occurs as a part of any SWC awarded as a result of this RFR. Contractors are responsible for the satisfactory performance and adequate oversight of their subcontractors. Subcontractors are required to meet the same state and federal financial and program reporting requirements and are held to the same reimbursable cost standards as contractors.



*Law Firm Business and Client References Form*

**Attached Form #1--Page 1 of 2**

The Respondent must provide seven (7) business references from work completed over the past three (3) years.

**Respondent Name:** \_\_\_\_\_

1. Reference name: \_\_\_\_\_ Contact: \_\_\_\_\_

Address: \_\_\_\_\_ Phone: (    ) \_\_\_\_\_

Fax number: \_\_\_\_\_ e-Mail address: \_\_\_\_\_

Description and date(s) of services provided and Specialty: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

2. Reference name: \_\_\_\_\_ Contact: \_\_\_\_\_

Address: \_\_\_\_\_ Phone: (    ) \_\_\_\_\_

Fax number: \_\_\_\_\_ e-Mail address: \_\_\_\_\_

Description and date(s) of services provided and Specialty: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

3. Reference name: \_\_\_\_\_ Contact: \_\_\_\_\_

Address: \_\_\_\_\_ Phone: (    ) \_\_\_\_\_

Fax number: \_\_\_\_\_ e-Mail address: \_\_\_\_\_

Description and date(s) of services provided and Specialty: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_





*Law Firm Business and Client References Form*  
*Attached Form #1--Page 2 of 2*

**Respondent Name:** \_\_\_\_\_

4. Reference name: \_\_\_\_\_ Contact: \_\_\_\_\_

Address: \_\_\_\_\_ Phone: (    ) \_\_\_\_\_

Fax number: \_\_\_\_\_ e-Mail address: \_\_\_\_\_

Description and date(s) of services provided and Specialty: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

5. Reference name: \_\_\_\_\_ Contact: \_\_\_\_\_

Address: \_\_\_\_\_ Phone: (    ) \_\_\_\_\_

Fax number: \_\_\_\_\_ e-Mail address: \_\_\_\_\_

Description and date(s) of services provided and Specialty: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

6. Reference name: \_\_\_\_\_ Contact: \_\_\_\_\_

Address: \_\_\_\_\_ Phone: (    ) \_\_\_\_\_

Fax number: \_\_\_\_\_ e-Mail address: \_\_\_\_\_

Description and date(s) of services provided and Specialty: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

7. Reference name: \_\_\_\_\_ Contact: \_\_\_\_\_

Address: \_\_\_\_\_ Phone: (    ) \_\_\_\_\_

Fax number: \_\_\_\_\_ e-Mail address: \_\_\_\_\_

Description and date(s) of services provided and Specialty: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_



## Law Firm / Individual Attorney Information Form

## Attached Form #2--Page 1 of 2

RFR Name and RFR Number:		
Law Firm Name		
Attorney Name (if not Law Firm)		
Street Address 1		
Street Address 2		
City:	State:	Zip Code:
Telephone Number: ( ) -	Fax Number: ( ) -	Contract Manager e-mail Address: (required for this RFR):
Two (2) Pseudonym e-mail addresses (required in order to permit anonymous participation by the Contractor in online bidding events as required for all Executive Departments in order to engage the services of a Contractor): (1): (2):		
Law Firm/Practice Web Address: Www.		Federal Employer ID No.
Contact Person for this RFR and Contract Manager if contract is awarded (same individual)::		
<b>A. What geographic area(s) does your firm serve?</b> <input type="checkbox"/> Metropolitan Boston <input type="checkbox"/> Southeastern Massachusetts <input type="checkbox"/> Western Massachusetts <input type="checkbox"/> Central Massachusetts <input type="checkbox"/> Northeast Massachusetts <input type="checkbox"/> Massachusetts (Entire State) <input type="checkbox"/> Other (Describe below) _____		
Date firm was founded: _____ State of Incorporation, if applicable: _____		
<b>B. Gross Annual Sales (Tax Year 2001)</b> <input type="checkbox"/> \$0 - \$49,999 <input type="checkbox"/> \$500,000 - \$999,999 <input type="checkbox"/> Over \$5,000,000 <input type="checkbox"/> \$50,000 - \$99,999 <input type="checkbox"/> \$1,000,000 - \$1,999,999 <input type="checkbox"/> \$100,000 - \$499,999 <input type="checkbox"/> \$2,000,000 - \$4,999,999		
<b>Number of Employees</b> <input type="checkbox"/> 1 - 10 employees <input type="checkbox"/> 20 - 30 employees <input type="checkbox"/> OVER 50 employees <input type="checkbox"/> 10 - 20 employees <input type="checkbox"/> 30 - 50 employees		
<b>Business Structure</b> <input type="checkbox"/> For Profit <input type="checkbox"/> S Corporation <input type="checkbox"/> Joint Venture <input type="checkbox"/> Non-Profit <input type="checkbox"/> C Corporation <input type="checkbox"/> LLC <input type="checkbox"/> Sole Proprietor <input type="checkbox"/> LLP <input type="checkbox"/> Partnership <input type="checkbox"/> Other (specify) _____		
Are you a minority-owned firm?		<input type="checkbox"/> Yes <input type="checkbox"/> No
Are you a women-owned firm?		<input type="checkbox"/> Yes <input type="checkbox"/> No
Are you certified by the State Office of Minority and Women Business Assistance (SOMWBA)?		<input type="checkbox"/> Yes <input type="checkbox"/> No
If you are SOMWBA-certified are you certified as an:		<input type="checkbox"/> MBE <input type="checkbox"/> WBE
<b>Amount of Gross Business conducted with Commonwealth of Massachusetts in last tax year (2002):</b> <input type="checkbox"/> \$0 <input type="checkbox"/> \$100,000 - \$499,999 <input type="checkbox"/> \$2,000,000 - \$4,999,999 <input type="checkbox"/> Up to and including \$49,999 <input type="checkbox"/> \$500,000 - \$999,999 <input type="checkbox"/> \$5,000,000 and Over <input type="checkbox"/> \$50,000 - \$99,999 <input type="checkbox"/> \$1,000,000 - \$1,999,999		





*Law Firm / Individual Attorney Information Form***Attached Form #2--Page 2 of 2**

Law Firm / Attorney Comments: (Include a brief description of the legal services your firm / practice provides. **Use only the space available, since attachments will not be evaluated.**)

Name of Signature Authority: _____		Date: _____
Title of Signatory: _____		Signature: _____
Telephone Number: _____		
Contact Person/Contract Manager for ST4H09_/PRF__:		Date: _____
Title of Contact Person/ Contract Manager: _____		Signature: _____
Telephone Number of Contact Person/ Contract Manager: _____		



**Request For Response (RFR) #ST4H09\_/PRF\_\_ for Legal Services**  
**Law Firm / Individual Attorney Practice Areas**  
**Attached Form #3--Page 1 of 1**

Steps to completing Attached Form #3:

- A. Select the legal practice area(s) that you wish your response to be considered under.
- B. Provide the requested information in each grid box ONLY for the legal Practice Areas that the Firm/Attorney are bidding on. Please note that, for the Maximum Legal Team Blended Rate per Hour for EACH Practice Area that you are bidding on, this rate be consistent with the Commonwealth of Massachusetts Executive Department Legal Billing Guidelines, which can be found at [<LINK TO LEGAL BILLING GUIDELINES>](#)
- C. Complete the Summary Description box.

Legal Practice Area (one or more)	Years in this area of Practice:	Number of Attorneys in this Practice Area:	Maximum Legal Team Blended Rate per Hour for EACH Practice Area bidding on:
Environmental and Land Use			
Intellectual Property			
Real Estate / Conveyancing / Leasing			
Litigation			
Education			
Information Technology			
Transportation			
Construction and Infrastructure Development			
Financial / Investment / Bond Legal Services			
Labor and Employment Law			
Family Law			
Health Care, Human and Social Services Law			
Other (specify):			

**SUMMARY DESCRIPTION**

- Use the space below to provide a summary description of the services [as indicated above] that your Law Firm / Practice is able to provide. Include details of the specialty practice areas you consider your Firm's/Practice's major area(s) of expertise. **Use only the space available, since attachments will not be evaluated.**
- Please identify the meaning of any acronyms used in this section.



*Checklist Document*  
*Attached Form #4--page 1 of 2*

1. Please present your response in the physical order listed below.
2. All documents requiring signatures must be signed by the individual who signs the Contractor Authorized Signature Verification Form
3. All signatures should be in BLUE ink by the Signatory Authority and hand-dated, also in BLUE ink.

1. \_\_\_\_\_ --Attached Form #5 (Cover Sheet for response)
2. \_\_\_\_\_ --Contractor Authorized Signature Verification Form (from Comm-PASS).  
This individual must be the/a Contractor Authorized Signatory for the individual or business. This person's signature must appear on this document and all others submitted with this response for the response to be valid.
3. \_\_\_\_\_ --Commonwealth Terms and Conditions (from Comm-PASS).
4. \_\_\_\_\_ --W-9 (Request for Taxpayer Identification Number and Certification, also referred to as Massachusetts Substitute W-9 Format) (from Comm-PASS).
5. \_\_\_\_\_ --Commonwealth Standard Contract Form and Instructions (from Comm-PASS).
6. \_\_\_\_\_ --Affirmative Action Plan or Form (from Comm-PASS).  
(Required from ALL Respondents to this RFR)
7. \_\_\_\_\_ --Northern Ireland Notice and Certification (from Comm-PASS).  
(Required from ALL Respondents to this RFR)
8. \_\_\_\_\_ --Law Firm / Individual Attorney Resumes (including all the resumes of all attorneys that are included in a law firm's proposed Legal Team)
9. \_\_\_\_\_ --Business References (**Attached Form #1--pages 1 and 2**).
10. \_\_\_\_\_ --Law Firm / Individual Attorney Information Form  
(**Attached Form #2--pages 1 and 2**).
11. \_\_\_\_\_ -- Law Firm / Individual Attorney Practice Areas Form (**Attached Form #3**).
12. \_\_\_\_\_ --Consultant Contractor Mandatory Submission Form (from Comm-PASS).
13. \_\_\_\_\_ --Desirable Options and Added Values (outlined in detail by Respondent) Services that the Respondent is willing to provide to The Commonwealth of Massachusetts in addition to those required (1. Affirmative Market Program; and 2. Pro Bono Legal Services) in this RFR. (Attach additional sheets if necessary.)





## APPENDIX F: DRAFT PRO BONO POLICY



**POLICY ON PRO BONO LEGAL SERVICES**  
**This directive establishes policy and procedures**  
**for lawyers employed by the Office of the Governor's**  
**Legal Counsel who participate in pro bono legal services, etc.**

**1. PURPOSE.** To establish policy and procedures for the participation by Office of the Governor's Legal Counsel ("OGLC") lawyers in pro bono legal services, programs, and activities.

**2. SCOPE.** This directive applies to all lawyers employed by the OGLC.

**3. POLICY.**

**a.** The OGLC encourages lawyers to participate in volunteer programs for community service. Supreme Judicial Court Rules of Professional Conduct, Rule 6.1(a), provide that a "lawyer should provide annually at least 25 hours of pro bono publico legal services for the benefit of persons of limited means... to charitable, religious, civic, community governmental, and educational organizations." The American Bar Association has adopted goals for lawyers to provide bono services to persons of limited means.

**b.** Lawyers employed by the OGLC may participate in pro bono publico activities only in accordance with the requirements and procedures set forth in this directive. The term "lawyer" or "lawyers" refers to a lawyer or lawyers employed by the OGLC.

**c.** Lawyers may participate in any approved pro bono programs, as listed on the OGLC website.

**d.** Lawyers are encouraged to provide legal services in connection with such approved charitable, religious, governmental, education, or other community activities as their interests may direct.

**4. RESPONSIBILITIES.**

**a. The Pro Bono Coordinating Committee** (hereinafter referred to as "Committee") is hereby established. The Committee shall have a Chair-person and such other members as may be appointed by the Governor's Counsel. The Committee will:

**(1)** Have general responsibilities for the operation of the OGLC pro bono program.

**(2)** Review and approve or disapprove acceptance of pro bono matters by OGLC lawyers.

**(3)** Serve as the liaison with referral agencies and the OGLC providing pro bono services. The Committee will assist the OGLC lawyers with conflict of interest questions and will provide advice on any issues which arise from the pro bono program.

**b. Office of the Governor's Legal Counsel.**

**(1)** Except as otherwise provided in (1) and (2) below, lawyers may accept pro bono assignments approved by the Committee in the following areas:

**(a)** Domestic relations cases in which an order of protection is the only relief sought.

**(b)** Landlord/tenant cases.

**(c)** Consumer protection cases in which the Commonwealth is not a party.

**(d)** Service as a guardian ad litem.

**(e)** Wills, living wills, powers of attorney, durable powers of attorney and guardianships.





(f) Participation as neutrals in dispute arbitration, mediation, or resolution services.

(g) Legal work for a nonprofit organization in matters designed primarily to address the needs of persons of limited means.

(h) Legal work for charitable, religious, local governmental, educational, or other community organizations.

(i) Participation in communities or activities related to the delivery of pro bono services.

(j) Educational activities, training and teaching designed to improve law, the legal system, the legal profession, or community understanding of the law and the legal profession.

(k) Literacy, tutoring, or mentoring programs for youth offenders in diversion programs.

(l) Other areas authorized by the Committee.

(2) Lawyers may not provide pro bono services in criminal matters.

(3) Lawyers may not accept or continue representation in the following:

(a) Any matter in which the Commonwealth or any of its agencies has an interest even if that agency has no connection to the lawyer's normal duties.

(b) Any matter which would require representation before a Commonwealth agency.

(c) Any matter in which a challenge to the constitutionality of a state statute is the indicated course of action.

(d) Any matter in which participation would create an appearance of a conflict of interest.

(e) Any matter that would interfere unduly with the lawyer's abilities to perform his or her regular duties.

(f) Any matter which would constitute a conflict of interest as provided in G.L. c. 268A or political activity;

(g) Any matter for which the attorney will be compensated, except that statutory attorneys fees shall be sought where provided by statute and donated to Massachusetts Legal Assistance Corporation with the client's consent or paid to the general fund of the Commonwealth.

(h) Any other matter in which participation may be inappropriate as determined by the Committee.

## **5. PROCEDURES.**

### **a. Notice and Approval.**

(1) Before agreeing to provide legal services in a pro bono matter, the lawyer must notify the Governor's Counsel who shall forward the request to the Committee. The request shall include such information as prescribed by the Committee. The Governor's Counsel shall recommend whether the request should be approved or disapproved.

(2) The Committee will approve or disapprove the matter and determine what limitations, if any, will apply. The Committee will communicate the approval or disapproval and any limitations to the lawyer.

(3) Before discussing a case, the lawyer must inform a pro bono client or the referral agency, as appropriate, that the lawyer must receive Committee approval before final acceptance of the matter.

(4) The lawyer, before performing any services for the pro bono client, must provide the client with an engagement letter which includes such terms as the Committee may prescribe.

**b. Case Management.** Once a lawyer has approval to accept the matter, the lawyer shall follow the procedures set by the referral agency, if any, for establishing and administering files, tracking deadlines, statutes of limitations, and all other matters pertinent to the case. The OGLC is not responsible for any of these matters.



### **c. Legal Malpractice**

**Insurance.** The OGLC does not provide insurance coverage for pro bono services and assumes no liability for pro bono activities performed by any of its lawyers. Coverage may be provided by a referral agency, particularly those providing direct legal representation of pro bono clients. In matters in which insurance is unavailable or impractical to procure, such as startup representation of nonprofit corporations, lawyers should recognize the risk of personal liability that they assume before undertaking to provide legal services.

### **d. Use of the Name of the Commonwealth, the OGLC, or Any Commonwealth Agencies.**

Lawyers who provide pro bono services do so in an individual capacity and shall not represent to any person that they are acting on behalf of the Commonwealth, the OGLC, or any agency of the Commonwealth. Lawyers shall not:

(1) Use office stationery or anything bearing the Commonwealth or any Commonwealth agency letterhead or logo.

(2) Distribute business cards provided by the Commonwealth or any Commonwealth agency.

(3) Use anything else that associates the pro bono services being performed with the official work of the Commonwealth or any Commonwealth agency, including the state e-mail system.

### **e. When Pro Bono Legal Services May be Provided.**

(1) Lawyers must give first priority their official duties. Pro bono matters should be handled outside regular work hours, such as during lunch periods, before and after regular work hours, and on weekends, holidays, and leave time, whenever feasible.

(2) It is recognized that, due to limitations on use of Commonwealth resources for pro bono purposes, as set forth in Section (g) below, it may be necessary for a lawyer to perform pro bono services on-site at the referral agency or nonprofit organization during regular work hours.

(3) Time spent on pro bono services during regular work hours shall be made up by the lawyer, on a weekly basis, so that the lawyer can:

(a) Account for the required hours per week on official duties; or

(b) Utilize approved annual, personal, or unpaid leave.

### **f. Pro Bono Leave of Absence [Reserved].**

### **g. Use of Resources.**

(1) The general policy is that lawyers must not use Commonwealth resources for pro bono matters.

(2) Direct expenses for any pro bono work, such as filing fees, court costs, and transcripts will not be paid by the Commonwealth. Lawyers must make appropriate arrangements with the client, the referral agency, or other body through which the matter was referred. Court costs and filing fees may be waived whenever an affidavit of indigency is filed with the Court.

(3) Lawyers are specifically prohibited from using the following Commonwealth resources for pro bono matters:

(a) Vehicles.

(b) Credit Cards.

(c) Accounts for payment of costs and expenses.

(d) On-line computer research services billed to the Commonwealth on a fee-per-use basis.

(e) Administrative and clerical employees, and any employee subordinate to the lawyer.





(f) Telephones for long distance calls except to referral agency.

(g) Postage.

(4) Lawyers may use the following Commonwealth resources and supplies for pro bono matters so long as the use does not interfere with the agency's work or efficiency:

(a) Library.

(b) Dictation equipment.

(c) Computers and typewriters.

(d) Fascimile and copy equipment.

(e) Printer paper, copy paper, envelopes, and similar supplies within reasonable limits.

(5) Lawyers are prohibited from using their workplace to meet with pro bono clients or others concerning such matters.

(6) Lawyers are prohibited from accepting telephone calls from pro bono clients at their workplace. In those instances where a referring agency is involved, a pro bono client must be given only the telephone number of the referring agency for the purpose of contacting the lawyer by telephone.

(7) The referral agency or organization for which pro bono matters are undertaken should be consulted at the outset about policies on use of their offices, support staff, credit cards, telephones, equipment, and supplies so that their resources can be used to the maximum extent permitted and feasible.

## **h. Training.**

(1) Lawyers representing pro bono clients are subject to M.R.P.C. 1.1, which provides that a lawyer shall provide competent representation to a client. Lawyers should not accept any case for which they do not have the requisite legal knowledge and skills.

(2) The OGLC does not assume responsibility to provide appropriate training opportunities for lawyers in pro bono programs.



